

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

STD. 400 (REV. 2-91)

Original  
For use by Secretary of State only

## AGENCY

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

AGENCY FILE NUMBER (if any)

0894-27

OAL FILE  
NUMBERS

NOTICE FILE NUMBER

REGULATORY ACTION NUMBER

EMERGENCY NUMBER

PREVIOUS REGULATORY ACTION NUMBER

For use by Office of Administrative Law (OAL) only

APPROVED

ENDORSED  
APPROVED FOR FILING  
AND PUBLICATION

1994 DEC 23 PM 2:10

JAN - 3 1995  
ADMINISTRATIVE LAW

Office of Administrative Law

FILED  
In the office of the Secretary of State  
of the State of California

JAN 3 1995

At 4:34 P.M.  
BILL JONES, Secretary of StateBy *Rolando Comies*  
Deputy Secretary of State

NOTICE

REGULATIONS

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE <u>Yslas v. Anderson Regulations</u>		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE	

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

## 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S)	ADOPT	50-024
SECTIONS AFFECTED	AMEND	
	REPEAL	

## 2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346) 
 ☐ Resubmittal 
 ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) 
 ☒ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify) \_\_\_\_\_

## 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

## 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State 
 ☐ Effective on filing with Secretary of State 
 ☒ Effective other (Specify) January 5, 1995

## 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☒ Department of Finance (Form STD. 399) 
 ☐ Fair Political Practices Commission 
 ☐ State Fire Marshal

☐ Other (Specify) \_\_\_\_\_

## 6. CONTACT PERSON

Frank Vitulli, Chief, Regulations Development

TELEPHONE NUMBER

657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

*Eloise Anderson*

DATE

12/23/94

TYPED NAME AND TITLE OF SIGNATORY

ELOISE ANDERSON, Director

**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

STD. 400 (REV. 2-91) ( REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Adopt Section 50-024 to read:

50-024 YSLAS V. ANDERSON RETROACTIVE LAWSUIT

50-024

HANDBOOK BEGINS HERE

.1 Background

On December 21, 1990, the Yslas v. Anderson Lawsuit was filed with the Sacramento County Superior Court. This lawsuit challenged the California Department of Social Services' (CDSS) policy of allowing county welfare departments (CWDs) to deny, reduce or stop payments for Greater Avenues for Independence (GAIN) Program supportive services because participants received an educational loan or grant. On March 30, 1994, the Sacramento County Superior Court signed the Settlement and Consent Decree. Under the terms of the Yslas v. Anderson Settlement and Consent Decree, plaintiffs and CDSS agreed that the following is the correct policy for CWDs to follow concerning the treatment of financial aid: CWDs shall obtain the prior, voluntary agreement of the GAIN participant before using student financial aid to deny, reduce or stop GAIN supportive services payments. In addition, the Yslas v. Anderson Settlement and Consent Decree specifies that GAIN participants whose supportive services payments were denied, reduced or stopped, due to the receipt of financial aid from October 19, 1987 through August 31, 1993, are entitled to retroactive benefits.

HANDBOOK ENDS HERE

.2 Definitions

For the purpose of these regulations:

- a. (Reserved)
- b. (Reserved)
- c. (1) "Category 1 eligible claimant" means any current or former GAIN participant whose supportive services payments were reduced or denied during the retroactive period because of an educational loan.
- (2) "Category 2 eligible claimant" means any current or former GAIN participant who signed a promissory note to repay the county for supportive services payments received during the retroactive period pending receipt of an educational grant or educational loan.
- (3) "Category 3 eligible claimant" means any current or former GAIN participant whose supportive services payments were reduced or denied during the retroactive period because of an educational grant he or she received to attend an educational or vocational training program, unless he or she agrees the funds were actually available for those supportive services.

- (4) "Claim period" means the period from January 15, 1995 through April 14, 1995 during which a potentially eligible claimant may file a claim under the Yslas v. Anderson Settlement.
- (5) "Corrective underpayment" means the retroactive payment of supportive services inappropriately withheld from an eligible claimant because of receipt or pending receipt of an educational loan or grant.
- (6) "CWD" means County Welfare Department.
- d. (Reserved)
- e. (Reserved)
- f. (1) "Five standard languages" means Spanish, Vietnamese, Laotian, Chinese and Cambodian.
- (2) "Four standard Asian languages" means Vietnamese, Laotian, Chinese and Cambodian.
- g. (1) "GEN 1172 (5/93) Court Case: Yslas v. Anderson - Report A" means the form used by CWDs to report statistical data regarding the claims filed and paid under this lawsuit.
- (2) "GEN 1172 (5/93) Court Case: Yslas v. Anderson - Report B" means the form used by CWDs to report data regarding their use of the TEMP GAIN 56A (8/93), (Student Financial Aid Statement, GAIN Supportive Services) form, as required by the Yslas v. Anderson Settlement and Consent Decree.
- h. - m. (Reserved)
- n. (1) "NOA" means a notice of action that is considered to be adequate within the meaning of Section 22-021.
- o. - q. (Reserved)
- r. (1) "Responsible CWD" means the county welfare department GAIN office that took an action on which an eligible claimant's claim is based.
- (2) "Retroactive period" means the period from October 19, 1987 through August 31, 1993.
- s. (Reserved)
- t. (1) "TEMP GAIN 84 (11/94), Informing Notice" means the document mailed by the CWD to inform potential claimants of possible corrective underpayments resulting from the Yslas v. Anderson Settlement and Consent Decree.



(2) "TEMP GAIN 85 (1/95), Claim Form" means the document used by claimants to file a claim based on the Yslas v. Anderson Settlement and Consent Decree.

(3) "TEMP GAIN 88 (11/94), Informing Poster" means the document that is posted to notify potential claimants of possible corrective underpayments resulting from the Yslas v. Anderson Settlement and Consent Decree.

u. - z.      (Reserved)

.3 Informing Eligible Claimants

HANDBOOK BEGINS HERE

.31 CDSS responsibilities. CDSS shall:

.311 Print the TEMP GAIN 88 (Informing Poster) in English with bullets in the five standard languages.

.312 Provide CWDs with:

(a) A reproducible copy of the TEMP GAIN 84 (Informing Notice) in English with bullets in the five standard languages.

(b) Reproducible copies of the TEMP GAIN 85 (Claim Form) in English and the five standard languages.

(c) Copies of NOA messages in English and reproducible copies of NOA forms in English and the five standard languages.

(d) Reproducible copies of the TEMP GAIN 88 (Informing Poster) with bullets in the five standard languages.

.313 Mail copies of the TEMP GAIN 88 (Informing Poster) to legal aid and welfare rights organizations of plaintiffs' choice at least 10 days before the beginning of the claim period.

(a) Plaintiffs' counsel shall provide CDSS with the mailing labels not to exceed 400.

.314 Provide a public service announcement, to be broadcast at no charge to CDSS, informing the public of the opportunity to claim corrective underpayments.

HANDBOOK ENDS HERE

.32 Included CWDs.

.321 All CWDs shall fully implement the provisions of Section 50-024.

(a) No CWDs are excluded from implementation of the Settlement and Consent Decree.

.33 CWD responsibilities. CWDs shall:

.331 Reproduce an adequate supply of the TEMP GAIN 84 (Informing Notice) in English with bullets in the five standard languages.

(a) On the TEMP GAIN 84 (Informing Notice), CWDs shall specify the county office address and phone number that potential claimants are to contact or call to obtain a TEMP GAIN 85 (Claim Form).

.332 Notify potentially eligible claimants by January 5, 1995 using one of the following methods:

(a) CWDs shall mail a TEMP GAIN 84 (Informing Notice) to all current AFDC recipients, by means of a CA 7 stuffer or similar mailing, or

(b) CWDs shall mail a TEMP GAIN 84 (Informing Notice) to all individuals who were GAIN participants from October 19, 1987 through August 31, 1993.

(1) CWDs shall maintain a record of all former GAIN participants to whom notices were mailed.

.333 Place TEMP GAIN 88 (Informing Poster) in conspicuous locations in all CWD offices, GAIN offices and Food Stamp issuance offices on the first day of the claim period.

(a) The TEMP GAIN 88 (Informing Poster) shall be displayed from January 15, 1995 until the close of business April 14, 1995.

(b) On the TEMP GAIN 88 (Informing Poster), CWDs shall specify the county office address and phone number that potential claimants are to contact to obtain a TEMP GAIN 85 (Claim Form).

.334 Provide TEMP GAIN 88 (Informing Poster) to all public and private colleges, which are known to CWDs to have enrolled current or former GAIN participants, by January 5, 1995.

(a) On the TEMP GAIN 88 (Informing Poster), CWDs shall specify the county office address and phone number that potential claimants are to contact to obtain a TEMP GAIN 85 (Claim Form).

HANDBOOK BEGINS HERE

(b) CDSS and/or CWDs cannot require public or private educational institutions to display the TEMP GAIN 88 (Informing Poster).

HANDBOOK ENDS HERE

- .335 Reproduce an adequate supply of the TEMP GAIN 85 (Claim Form) in English and the five standard languages.
- .336 Mail a TEMP GAIN 85 (Claim Form) within five working days following a request by anyone who calls the phone number specified on the TEMP GAIN 84 (Informing Notice) and TEMP GAIN 88 (Informing Poster).
- .337 Give a TEMP GAIN 85 (Claim Form), immediately upon request during normal business hours, to anyone who goes to the office specified on the TEMP GAIN 84 (Informing Notice) and the TEMP GAIN 88 (Informing Poster) and requests a claim form.
  - (a) CWDs shall maintain an adequate supply of the TEMP GAIN 85 (Claim Form) on hand for distribution to potential claimants.
- .338 Specify on the TEMP GAIN 85 (Claim Form) the address where claimants are to return the completed claim form.

.4 Application for Corrective Underpayment

- .41 Potential Category 1 and Category 3 eligible claimants shall:
  - .411 Complete and sign, under the penalty of perjury, a TEMP GAIN 85 (Claim Form).
  - .412 Submit the TEMP GAIN 85 (Claim Form) on or before the end of the claim period to the responsible CWD.
    - (a) If mailed, postmark must be no later than April 14, 1995.
    - (b) During the claim period, claimants shall be permitted to resubmit a claim that was previously denied due to being incomplete.
  - .413 Submit a completed TEMP GAIN 85 (Claim Form) to each responsible CWD if there was more than one responsible CWD.
  - .414 Provide necessary additional information, documentation or clarification upon request from a CWD.
- .42 CWD responsibilities. CWDs shall:
  - .421 Stamp the TEMP GAIN 85 (Claim Form) with the date it was received by the CWD.
    - (a) If the date of receipt cannot be determined by a date stamp, the date of receipt shall be the date the claimant signed the TEMP GAIN 85 (Claim Form).
  - .422 Notwithstanding the date specified in .421 above, process all claim forms postmarked on or before April 14, 1995.

.423 If the TEMP GAIN 85 (Claim Form) is postmarked after April 14, 1995, issue NOA M50-024D (Deny Claim) within 30 days following the date of receipt of the claim.

(a) The CWD shall retain envelopes postmarked after April 14, 1995 to verify the date the claim was submitted.

.424 Retain all records which contain documents relevant to the Yslas v. Anderson Lawsuit for three years from the date CDSS submits the last expenditure report for federal reimbursement.

(a) Documents included are those used to determine eligibility for the class (including denials) and those used to determine the amount of corrective underpayments, including case records, payment records, assistance claims, reimbursement claims, claim verification and any other documents related to the Yslas v. Anderson Lawsuit.

.425 Determine the responsible CWD.

(a) If the CWD receiving the TEMP GAIN 85 (Claim Form) determines that it is the responsible CWD, the CWD shall process the TEMP GAIN 85 (Claim Form) in accordance with Section 50-024.5.

(1) "Responsible CWD" is defined in Section 50-024.2r.(1).

(b) If the CWD receiving the TEMP GAIN 85 (Claim Form) determines that it is not the responsible CWD, the receiving CWD shall issue NOA M50-024D (Deny Claim) and forward the TEMP GAIN 85 (Claim Form) to the responsible CWD within 30 days from receipt of the claim.

(1) The receiving CWD shall inform the claimant on NOA M50-024D (Deny Claim) that the TEMP GAIN 85 (Claim Form) has been forwarded to the responsible CWD for processing.

(2) The responsible CWD shall process the claim in accordance with Section 50-024.5.

(A) Notwithstanding Section 50-024.423, responsible CWDs shall process all claims that are forwarded from a receiving CWD, even if the claims are received from the receiving CWD after the end of the claim period.

(3) If the responsible CWD cannot be determined, the receiving CWD shall issue NOA M50-024D (Deny Claim) within 30 days following receipt of the claim.



- (A) The CWD shall indicate on the NOA that the claimant must file the claim with the responsible CWD.

.5 Processing Claim Forms

.51 For Category 1 and 3 eligible claimants, the responsible CWD shall review each TEMP GAIN 85 (Claim Form) for completeness. The TEMP GAIN 85 (Claim Form) shall be considered complete when the following information is provided by the claimant:

.511 Answers to the qualifying eligible claimant questions on the TEMP GAIN 85 (Claim Form).

.512 Claimant's case name(s) used during retroactive period.

.513 Claimant's date of birth.

.514 Claimant's social security number.

.515 County or counties of residence during retroactive period.

.516 Claimant's current mailing address.

.517 Claimant's signature.

.518 The following information shall be provided by the claimant on the TEMP GAIN 85 (Claim Form) to the extent possible:

(a) The AFDC or GAIN case number.

(b) Phone number.

(c) Date(s) for which the claim is being filed.

(d) The name of the school or educational program.

.52 If the claim is complete, as specified in Section 50-024.51, and the claimant meets the definition of a Category 1 or 3 eligible claimant, as specified in Section 50-024.2(c), the CWD shall complete processing the claim within 60 days after receipt of the claim.

.521 If the information on the claim form and in the case file is sufficient, the CWD shall calculate the corrective underpayment, in accordance with Section 50-024.7 and issue a check with NOA M50-024A (Approve Claim) within the 60-day time frame specified above.

(a) CWDs shall indicate on the NOA when the check will be issued if unable to issue the check for the corrective underpayment with the NOA.

- .522 The corrective underpayment shall be equal to the amount of supportive services payments that were reduced or denied because the claimant received an educational grant or loan, plus interest, as determined in accordance with Section 50-024.74.
- .523 In the absence of evidence to the contrary, CWDs shall accept self-certification from the claimant, signed under the penalty of perjury, to satisfy documentary requirements in the event such documentation is not available.
- .524 The CWD shall verify documentation whenever authenticity is in doubt.
- .53 If the claimant is NOT an eligible claimant, the CWD shall issue NOA M50-024D (Deny Claim) within 60 days after the claim was received.
- .531 The CWD shall preprint the GAIN 50 (6/92), (Your GAIN Hearing Rights), to the back of the NOA or attach a copy of the GAIN 50 to the NOA.
- .54 If additional information is needed the CWD shall issue NOA M50-024B (Request Claim Information) within 30 days after receipt of the claim.
- .541 The CWD shall indicate on the NOA that claimants have 30 days from the date of the NOA to respond to the request for additional information.
- .542 The CWD shall complete processing a claim within 60 days after receiving the additional information.
- .543 If the claimant meets the definition of a Category 1 or 3 eligible claimant, the CWD shall calculate the corrective underpayment, in accordance with Section 50-024.7, and issue a check with NOA M50-024A (Approve Claim) within the 60-day time frame specified in .542 above.
- .544 The CWD shall issue NOA M50-024D (Deny Claim) if the additional information does not establish the claimant as a Category 1 or 3 eligible claimant.
- .545 The CWD shall issue NOA M50-024D (Deny Claim) if the claimant does not respond within the time specified in .541 above.
- .6 Case Review - Category 2 Eligible Claimants
- .61 CWDs shall identify all Category 2 eligible claimants, as defined in Section 50-024.2(c)(2).
- .611 CWDs shall not require potential Category 2 eligible claimants to submit a claim form.
- .62 If the information in the case file is sufficient and the participant meets the definition of a Category 2 eligible claimant, the CWD shall complete the case review, calculate the corrective underpayment and issue the corrective underpayment check with NOA M50-024A (Approve Claim) before April 14, 1995.

- .621 The corrective underpayment shall be equal to the amount paid by the Category 2 eligible claimant to the CWD under the promissory note for supportive services received during the retroactive period.
- .622 The CWD shall indicate on the NOA when the corrective underpayment check will be issued if the CWD is unable to issue the corrective underpayment check with the NOA.
- .623 In the absence of evidence to the contrary, CWDs shall accept self-certification from the eligible claimant, signed under the penalty of perjury, to satisfy documentary requirements in the event such documentation is not available.
- .624 CWDs shall include interest, as specified in Section 50-024.7, in the calculation of corrective underpayments for eligible claimants not on aid at the time payment is authorized.
- .63 CWDs shall cancel the balance due on all promissory notes issued because a GAIN participant received an educational loan or grant.
- .64 If the information in the case file is not sufficient to complete the review and calculate the corrective underpayment, the CWD shall issue NOA M50-024C (Request Case Information) before February 14, 1995 to request the needed information.
- .641 The CWD shall indicate on the NOA that participants shall have 30 days from the date of the NOA or until the end of the claim period, whichever is longer, to submit the needed information.
- .642 The CWD shall complete the case file review and issue any corrective underpayment with NOA M50-024A (Approve Claim) within 60 days following receipt of the needed information from the participant.
- .643 If the participant does not submit the needed information before the deadline specified on the NOA, the CWD shall discontinue its review of the case file and shall not make any corrective underpayments to the participant.
- (a) The CWD shall note in the case file the reason why the review was discontinued.

.7 Computation of Corrective Underpayments

- .71 There is no minimum amount an eligible claimant may receive as a corrective underpayment.
- .72 The claimant shall not be entitled to corrective underpayments for any portion of his/her supportive services payments that were previously repaid under another lawsuit.

- .73 CWDs shall balance a corrective underpayment against an outstanding overpayment as follows:
- .731 CWDs shall balance corrective underpayments for child care services with outstanding child care overpayments as specified in Section 42-751.4.
- .732 CWDs shall balance corrective underpayments for transportation or ancillary services with outstanding transportation or ancillary services overpayments as specified in Section 42-751.4.
- .733 CWDs shall attempt to obtain the written agreement of the eligible claimant to balance a corrective underpayment and outstanding overpayment in the following instances:
- (a) A transportation or ancillary services corrective underpayment with a child care overpayment.
  - (b) A child care corrective underpayment with a transportation or ancillary services overpayment.
  - (c) A child care, transportation, or ancillary services corrective underpayment with an AFDC cash aid overpayment.
- .74 CWDs shall pay interest to those eligible claimants who are not on aid at the time payment is authorized. To pay interest, CWDs shall:
- .741 Begin interest in the month subsequent to the last month of the supportive services payment reduction or denial or the last month when payment for a promissory note was received.
- .742 Determine the month in which payment is authorized.
- .743 To determine the appropriate interest amount and corrective underpayment:
- (a) determine the Initial Interest Month (the month following the last month of the supportive services reduction or denial or the last month when payment for a promissory note was received),
  - (b) determine the Payment Authorization Month (the month the corrective underpayment will be authorized),
  - (c) determine the interest percentage factor on the "Interest Chart for Yslas v. Anderson Corrective Underpayments" (see handbook Section 50-024.745) where the Initial Interest Month and Payment Authorization Month dates meet,
  - (d) multiply the amount of supportive services reduced or denied by the interest percentage factor, and



- (e) add the amount of supportive services reduced or denied to the interest to be paid to determine the corrective underpayment.

HANDBOOK BEGINS HERE

.744 EXAMPLE: A CWD determines that an eligible claimant who is no longer on aid had her child care reduced \$300.00 from January 1, 1988 through April 30, 1988 because she received an educational loan.

To Calculate the Corrective Underpayment:

(a)	<u>Initial Interest Month - May 1988</u>	
(b)	<u>Payment Authorization Month - January 1995</u>	
	<u>Amount of Supportive Services</u>	<u>\$300.00</u>
	<u>Reduced or Denied</u>	
(c)	<u>Interest Percentage Factor</u>	<u>X .4975</u>
(d)	<u>Interest To Be Paid</u>	<u>+\$149.25</u>
(e)	<u>Corrective Underpayment</u>	<u>\$449.25</u>

.745 Interest Chart for Yslas v. Anderson Corrective Underpayments

<u>Initial</u> <u>Interest</u> <u>Month</u>	<u>Payment Authorization Month</u>					
	<u>Jan-95</u>	<u>Feb-95</u>	<u>Mar-95</u>	<u>Apr-95</u>	<u>May-95</u>	<u>Jun-95</u>
<u>Oct-87</u>	<u>.5383</u>	<u>.5467</u>	<u>.5550</u>	<u>.5633</u>	<u>.5717</u>	<u>.5800</u>
<u>Nov-87</u>	<u>.5325</u>	<u>.5409</u>	<u>.5492</u>	<u>.5575</u>	<u>.5659</u>	<u>.5742</u>
<u>Dec-87</u>	<u>.5266</u>	<u>.5350</u>	<u>.5433</u>	<u>.5516</u>	<u>.5600</u>	<u>.5683</u>
	<u>Jan-95</u>	<u>Feb-95</u>	<u>Mar-95</u>	<u>Apr-95</u>	<u>May-95</u>	<u>Jun-95</u>
<u>Jan-88</u>	<u>.5208</u>	<u>.5292</u>	<u>.5375</u>	<u>.5458</u>	<u>.5542</u>	<u>.5625</u>
<u>Feb-88</u>	<u>.5150</u>	<u>.5234</u>	<u>.5317</u>	<u>.5400</u>	<u>.5484</u>	<u>.5567</u>
<u>Mar-88</u>	<u>.5091</u>	<u>.5175</u>	<u>.5258</u>	<u>.5341</u>	<u>.5425</u>	<u>.5508</u>
<u>Apr-88</u>	<u>.5033</u>	<u>.5117</u>	<u>.5200</u>	<u>.5283</u>	<u>.5367</u>	<u>.5450</u>
<u>May-88</u>	<u>.4975</u>	<u>.5059</u>	<u>.5142</u>	<u>.5225</u>	<u>.5309</u>	<u>.5392</u>
<u>Jun-88</u>	<u>.4916</u>	<u>.5000</u>	<u>.5083</u>	<u>.5166</u>	<u>.5250</u>	<u>.5333</u>
<u>Jul-88</u>	<u>.4858</u>	<u>.4942</u>	<u>.5025</u>	<u>.5108</u>	<u>.5192</u>	<u>.5275</u>
<u>Aug-88</u>	<u>.4800</u>	<u>.4884</u>	<u>.4967</u>	<u>.5050</u>	<u>.5134</u>	<u>.5217</u>

	<u>Jan-95</u>	<u>Feb-95</u>	<u>Mar-95</u>	<u>Apr-95</u>	<u>May-95</u>	<u>Jun-95</u>
Sep-88	.4741	.4825	.4908	.4991	.5075	.5158
Oct-88	.4683	.4767	.4850	.4933	.5017	.5100
Nov-88	.4625	.4709	.4792	.4875	.4959	.5042
Dec-88	.4566	.4650	.4733	.4816	.4900	.4983

	<u>Jan-95</u>	<u>Feb-95</u>	<u>Mar-95</u>	<u>Apr-95</u>	<u>May-95</u>	<u>Jun-95</u>
Jan-89	.4508	.4592	.4675	.4758	.4842	.4925
Feb-89	.4450	.4534	.4617	.4700	.4784	.4867
Mar-89	.4391	.4475	.4558	.4641	.4725	.4808
Apr-89	.4333	.4417	.4500	.4583	.4667	.4750
May-89	.4275	.4359	.4442	.4525	.4609	.4692
Jun-89	.4216	.4300	.4383	.4466	.4550	.4633
Jul-89	.4158	.4242	.4325	.4408	.4492	.4575
Aug-89	.4100	.4184	.4267	.4350	.4434	.4517
Sep-89	.4041	.4125	.4208	.4291	.4375	.4458
Oct-89	.3983	.4067	.4150	.4233	.4317	.4400
Nov-89	.3925	.4009	.4092	.4175	.4259	.4342
Dec-89	.3866	.3950	.4033	.4116	.4200	.4283

	<u>Jan-95</u>	<u>Feb-95</u>	<u>Mar-95</u>	<u>Apr-95</u>	<u>May-95</u>	<u>Jun-95</u>
Jan-90	.3808	.3892	.3975	.4058	.4142	.4225
Feb-90	.3750	.3834	.3917	.4000	.4084	.4167
Mar-90	.3691	.3775	.3858	.3941	.4025	.4108
Apr-90	.3633	.3717	.3800	.3883	.3967	.4050
May-90	.3575	.3659	.3742	.3825	.3909	.3992
Jun-90	.3516	.3600	.3683	.3766	.3850	.3933
Jul-90	.3458	.3542	.3625	.3708	.3792	.3875

	<u>Jan-95</u>	<u>Feb-95</u>	<u>Mar-95</u>	<u>Apr-95</u>	<u>May-95</u>	<u>Jun-95</u>
<u>Aug-90</u>	.3400	.3484	.3567	.3650	.3734	.3817
<u>Sep-90</u>	.3341	.3425	.3508	.3591	.3675	.3758
<u>Oct-90</u>	.3283	.3367	.3450	.3533	.3617	.3700
<u>Nov-90</u>	.3225	.3309	.3392	.3475	.3559	.3642
<u>Dec-90</u>	.3166	.3250	.3333	.3416	.3500	.3583

	<u>Jan-95</u>	<u>Feb-95</u>	<u>Mar-95</u>	<u>Apr-95</u>	<u>May-95</u>	<u>Jun-95</u>
<u>Jan-91</u>	.3108	.3192	.3275	.3358	.3442	.3525
<u>Feb-91</u>	.3050	.3134	.3217	.3300	.3384	.3467
<u>Mar-91</u>	.2991	.3075	.3158	.3241	.3325	.3408
<u>Apr-91</u>	.2933	.3017	.3100	.3183	.3267	.3350
<u>May-91</u>	.2875	.2959	.3042	.3125	.3209	.3292
<u>Jun-91</u>	.2816	.2900	.2983	.3066	.3150	.3233
<u>Jul-91</u>	.2758	.2842	.2925	.3088	.3092	.3175
<u>Aug-91</u>	.2700	.2784	.2867	.2950	.3034	.3117
<u>Sep-91</u>	.2641	.2725	.2808	.2891	.2975	.3058
<u>Oct-91</u>	.2583	.2667	.2750	.2833	.2917	.3000
<u>Nov-91</u>	.2525	.2609	.2692	.2775	.2859	.2942
<u>Dec-91</u>	.2466	.2550	.2633	.2716	.2800	.2883

	<u>Jan-95</u>	<u>Feb-95</u>	<u>Mar-95</u>	<u>Apr-95</u>	<u>May-95</u>	<u>Jun-95</u>
<u>Jan-92</u>	.2408	.2492	.2575	.2658	.2742	.2825
<u>Feb-92</u>	.2350	.2434	.2517	.2600	.2684	.2767
<u>Mar-92</u>	.2291	.2375	.2458	.2541	.2625	.2708
<u>Apr-92</u>	.2233	.2317	.2400	.2483	.2567	.2650
<u>May-92</u>	.2175	.2259	.2342	.2425	.2509	.2592
<u>Jun-92</u>	.2116	.2200	.2283	.2366	.2450	.2533

	<u>Jan-95</u>	<u>Feb-95</u>	<u>Mar-95</u>	<u>Apr-95</u>	<u>May-95</u>	<u>Jun-95</u>
<u>Jul-92</u>	.2058	.2142	.2225	.2308	.2392	.2475
<u>Aug-92</u>	.2000	.2084	.2167	.2250	.2334	.2417
<u>Sep-92</u>	.1941	.2025	.2108	.2191	.2275	.2358
<u>Oct-92</u>	.1883	.1967	.2050	.2133	.2217	.2300
<u>Nov-92</u>	.1825	.1909	.1992	.2075	.2159	.2242
<u>Dec-92</u>	.1766	.1850	.1933	.2016	.2100	.2183

	<u>Jan-95</u>	<u>Feb-95</u>	<u>Mar-95</u>	<u>Apr-95</u>	<u>May-95</u>	<u>Jun-95</u>
<u>Jan-93</u>	.1708	.1792	.1875	.1958	.2042	.2125
<u>Feb-93</u>	.1650	.1734	.1817	.1900	.1984	.2067
<u>Mar-93</u>	.1591	.1675	.1758	.1841	.1925	.2008
<u>Apr-93</u>	.1533	.1617	.1700	.1783	.1867	.1950
<u>May-93</u>	.1475	.1559	.1642	.1725	.1809	.1892
<u>Jun-93</u>	.1416	.1500	.1583	.1666	.1750	.1833
<u>Jul-93</u>	.1358	.1442	.1525	.1608	.1692	.1775
<u>Aug-93</u>	.1300	.1384	.1467	.1550	.1634	.1717

HANDBOOK ENDS HERE

.75 For the purpose of determining continuing eligibility and the amount of assistance for the AFDC Program, CWDs shall not consider a corrective underpayment as income nor as a resource in the month paid nor in the following month.

.76 For the Food Stamp Program, a retroactive corrective underpayment shall be excluded as income for all Food Stamp households and excluded as a resource for categorically eligible Food Stamp households as long as they remain eligible for AFDC.

.8 Statistical Reports

.81 CWDs shall submit the GEN 1172 (5/93) Court Case: Yslas v. Anderson- Report A no later than March 31, 1995 to the CDSS Statistical Services Bureau.

.82 CWDs shall report data on the disposition of all claims received during the claim period, from January 15, 1995 through April 14, 1995.



.83 The report specified in Section 50-024.82 above shall include:

.831 The total number of:

- (a) TEMP GAIN 85s (Claim Forms) mailed by CWD.
- (b) TEMP GAIN 85s (Claim Forms) handed out by CWD.
- (c) TEMP GAIN 85s (Claim Forms) received by CWD.
- (d) Claims approved.
- (e) Claims denied. CWDs shall include the number of claims denied for each of the following reasons:
  - (1) Untimely. Includes TEMP GAIN 85s (Claim Forms) received after the claim period.
  - (2) Not an eligible claimant.
  - (3) Claim sent to wrong CWD and receiving CWD was not able to determine the responsible CWD to which the TEMP GAIN 85 (Claim Form) should be forwarded.
  - (4) Claim sent to wrong CWD and receiving CWD forwarded to responsible CWD.
  - (5) Incomplete. Includes claims that are not complete, as specified in Section 50-024.51, and there is no forwarding address to obtain the additional information needed; and incomplete claims for which additional information was requested but not received before the deadline specified on the NOA.
  - (6) Other.

.832 Total dollar amount of corrective underpayments paid (including interest).

.833 Total dollar amount of overpayments offset with corrective underpayments.

.84 The CWDs shall report to the CDSS Statistical Services Bureau the number of GAIN participants who agree to use their student financial aid to pay for their supportive services, participants who do not agree to use their financial aid to pay for their supportive services, and participants who rescinded their previous agreement to use their financial aid to pay for their supportive services.

.841 CWDs shall submit the above data on the GEN 1172 (5/93) Yslas v. Anderson-Report B, on a quarterly basis from July 1, 1994 through June 30, 1996.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Yslas v. Anderson, Sacramento County Superior Court, Case No. 365717, dated March 30, 1994; Yslas v. Anderson, Modification of Consent Decree, dated July 13, 1994; Yslas v. Anderson, Order Approving Modification of Consent Decree, dated September 26, 1994; and Yslas v. Anderson, Stipulation and Order, dated October 13, 1994, and Sections 11323.2 and 11323.4, Welfare and Institutions Code.

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91)

AGENCY

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

See instructions on  
reverse)

AGENCY FILE NUMBER (if any)

0794-24

OAL FILE  
NUMBERS

NOTICE FILE NUMBER

REGULATORY ACTION NUMBER

EMERGENCY NUMBER

PREVIOUS REGULATORY ACTION NUMBER

For use by Office of Administrative Law (OAL) only

APPROVED

1995 DEC 23 2 18  
JAN -3 1995  
OFFICE OF  
ADMINISTRATIVE LAW  
Office of Administrative Law

NOTICE

REGULATIONS

Original  
For use by Secretary of State only

FILED

In the office of the Secretary of State  
of the State of California

JAN 3 1995

At 4:34 P.M.  
P. JONES, Secretary of StateBy Roberta Jones  
Deputy Secretary of State

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE CCWRO v. Anderson		TITLE(S)		FIRST SECTION AFFECTED		2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER			
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		ACTION ON PROPOSED NOTICE		NOTICE REGISTER NUMBER		PUBLICATION DATE	

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

## 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S)	ADOPT	50-025 et seq.
SECTIONS AFFECTED	AMEND	
	REPEAL	

## 2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346)  
☐ Resubmittal  
☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)  
☒ Emergency (Gov. Code, § 11346.1(b))  
☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.  
☐ Print Only  
☐ Other (specify)

## 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

## 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State  
☐ Effective on filing with Secretary of State  
☒ Effective other (Specify) January 5, 1995

## 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☒ Department of Finance (Form STD. 399)  
☐ Fair Political Practices Commission  
☐ State Fire Marshal

Other (Specify)

## 6. CONTACT PERSON

Frank Vitulli, Chief, Office of Regulations Development

TELEPHONE NUMBER

(916) 657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE



TYPED NAME AND TITLE OF SIGNATORY

ELOISE ANDERSON, Director

DATE

DEC 23 1994

**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

STD. 400 (REV. 2-91) ( REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.



Adopt Section 50-025 to read:

50-025 CCWRO V. ANDERSON RETROACTIVE LAWSUIT

50-025

HANDBOOK BEGINS HERE

.1 Background.

On February 6, 1990, the Coalition of California Welfare Rights Organizations (CCWRO) v. Anderson lawsuit was filed with the Sacramento County Superior Court, challenging the California Department of Social Services' (CDSS) notice procedures for noncompliant Greater Avenues for Independence (GAIN) participants. Prior to October 1, 1990, GAIN regulations required counties to send a GAIN Appointment Notice to a noncompliant participant for cause determination. If the participant failed to respond to the notice, the case would go through the conciliation process without further notice to the participant prior to the imposition of sanctions.

On September 12, 1991, the Superior Court granted CDSS summary judgment, finding that the applicable GAIN regulations provided participants with adequate notice and a reasonable opportunity to appear. On January 4, 1993, the Court of Appeal ruled in favor of an appeal by CCWRO and reversed the decision of the Superior Court. The case was remanded to Superior Court for further proceedings.

On March 8, 1994, the Superior Court entered Judgment on the case as directed by the Court of Appeal. The CCWRO Judgment ruled that the procedure of imposing a conciliation plan and subsequent sanction without further notice to a participant who failed to respond to a GAIN Appointment Notice was not promulgated as a rule in accordance with the Administrative Procedures Act, Government Code Sections 11346-11347.5.

In addition to the counties that did not send additional notices to participants prior to imposing a conciliation plan and subsequent sanction, the Court also included in the Judgment those counties that sent an additional notice prior to conciliation. The Court ruled that the additional notice procedure used by these counties was invalid because it was not promulgated as a regulation in accordance with the Administrative Procedures Act.

The Judgment specifies that all mandatory GAIN participants who were mailed a GAIN Appointment Notice during the retroactive period, who failed to respond to the appointment notice, or an additional notice from the county, and whose Aid to Families with Dependent Children (AFDC) benefits were reduced solely as a result of their failure to participate in the GAIN Program for the reasons specified in the Appointment Notice are class members eligible for corrective underpayment.

HANDBOOK ENDS HERE

.2 Definitions.

For the purpose of these regulations:

a.-b. Reserved.

c. (1) "Claim period" means the period from January 15, 1995 through April 14, 1995 during which a potential class member may file a claim under CCWRO v. Anderson.

(2) "Class member" means all mandatory GAIN participants who were mailed a GAIN Appointment Notice from July 1, 1985 through September 30, 1990, who failed to respond to the Appointment Notice, or an additional notice from the county, and who were sanctioned solely as a result of their failure to participate in the GAIN Program for the reasons specified in the appointment notice.

(3) "Corrective underpayment" means the retroactive payment of cash aid inappropriately withheld from a class member.

(4) "CWD" means county welfare department.

d.-e. Reserved.

f. (1) "Five standard languages" means Spanish, Vietnamese, Laotian, Chinese and Cambodian.

(2) "Four standard Asian languages" means Vietnamese, Laotian, Chinese and Cambodian.

g. (1) "GEN 1172 (5/93) Court Case: CCWRO v. Anderson" (Court Case Statistical Report) means the form used by CWDs to report statistical data regarding the claims filed and paid under this lawsuit.

h.-m. Reserved.

n. (1) "NOA" means a notice of action that is considered to be adequate within the meaning of Manual of Policies and Procedures (MPP) Section 22-021.

o.-q. Reserved.

r. (1) "Responsible CWD" means the county welfare department GAIN office that took an action on which a class member's claim is based.

(2) "Retroactive period" means the period from July 1, 1985 through September 30, 1990.

s. Reserved.

- t. (1) "TEMP GAIN 86 (11/94), Informing Notice" means the document mailed by the CWD to inform potential claimants of possible corrective underpayments resulting from the CCWRO Court Order.
- (2) "TEMP GAIN 87 (1/95), Claim Form" means the document used by claimants to file a claim based on the CCWRO Court Order.
- (3) "TEMP GAIN 89 (11/94), Informing Poster" means the document that is posted to notify potential claimants of possible corrective underpayments resulting from the CCWRO Court Order.

u.-z. Reserved.

.3 Informing Class Members.

HANDBOOK BEGINS HERE

.31 CDSS Responsibilities. CDSS shall:

- .311 Print the TEMP GAIN 89 (Informing Poster) in English with bullets in the five standard languages.
- .312 Provide CWDs with:
- (a) A reproducible copy of the TEMP GAIN 86 (Informing Notice) in English with bullets in the five standard languages.
- (b) Reproducible copies of the TEMP GAIN 87 (Claim Form) in English and the five standard languages.
- (c) Copies of NOA messages in English and reproducible copies of NOA forms in English and the five standard languages.
- (d) Reproducible copies of the TEMP GAIN 89 (Informing Poster) with bullets in the five standard languages.
- .313 Mail copies of the TEMP GAIN 89 (Informing Poster) to legal aid and welfare rights organizations of plaintiffs' choice at least 10 days before the beginning of the claim period.
- (a) Plaintiffs' counsel shall provide CDSS with the mailing labels not to exceed 300.

HANDBOOK ENDS HERE

.32 Included CWDs.

- .321 The following CWDs are identified as included CWDs. These CWDs shall fully implement the provisions of the Judgment:

- (a) Alpine, Alameda, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Imperial, Inyo, Kern, Kings, Lake, Lassen, Los Angeles, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Mono, Monterey, Napa, Nevada, Orange, Placer, Plumas, Riverside, Sacramento, San Benito, San Bernardino, San Diego, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Shasta, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Ventura, Yolo, and Yuba.
- .322 The following CWDs are not required to fully implement the notification and claim processing provisions of the Judgment.

  - (a) San Francisco, Santa Cruz, Sierra, and Tuolumne.
  - (b) If these excluded CWDs receive a TEMP GAIN 87 (Claim Form), they shall issue the M50-025D (Deny Claim) and forward the claim to the responsible CWD, if known.
- .33 CWD Responsibilities. Included CWDs shall:

  - .331 Reproduce an adequate supply of the TEMP GAIN 86 (Informing Notice) in English with bullets in the five standard languages.

    - (a) On the TEMP GAIN 86 (Informing Notice), CWDs shall specify the county office address and phone number that potential claimants are to contact or call to obtain a TEMP GAIN 87 (Claim Form).
  - .332 Notify potential class members using one of the following methods:

    - (a) CWDs with the computer systems capability to identify GAIN participants who are potential class members shall conduct a computerized search and mail a TEMP GAIN 86 (Informing Notice) to each potential class member by January 5, 1995.
      - (1) CWDs shall maintain a record of all potential class members to whom notices were mailed.
    - (b) CWDs that do not have the capability to conduct a computerized search may choose to perform a manual case file search to identify GAIN participants who are potential class members and mail a TEMP GAIN 86 (Informing Notice) to each potential class member by January 5, 1995.
      - (1) CWDs shall maintain a record of all potential class members to whom notices were mailed.
    - (c) CWDs that do not have the capability to conduct a computerized search and who choose not to conduct a manual search shall send a TEMP GAIN 86 (Informing Notice) to all current AFDC recipients, via a CA 7 stuffer, by January 5, 1995.

- .333 Place TEMP GAIN 89 (Informing Poster) in conspicuous locations in all welfare offices, GAIN offices and Food Stamp issuance offices the first day of the claim period.
- (a) The TEMP GAIN 89 (Informing Poster) shall be displayed from January 15, 1995 until close of business April 14, 1995.
- (b) On the TEMP GAIN 89 (Informing Poster), CWDs shall specify the county office address and telephone number that potential claimants are to contact or call to obtain a TEMP GAIN 87 (Claim Form).
- .334 Reproduce an adequate supply of the TEMP GAIN 87 (Claim Form) in English and the five standard languages.
- .335 Mail a TEMP GAIN 87 (Claim Form) within five working days following a request by anyone who calls the phone number specified on the TEMP GAIN 86 (Informing Notice) and TEMP GAIN 89 (Informing Poster).
- .336 Give a TEMP GAIN 87 (Claim Form), immediately upon request during normal business hours, to anyone who goes to the office specified on the TEMP GAIN 86 (Informing Notice) and TEMP GAIN 89 (Informing Poster) and requests a claim form.
- (a) CWDs shall maintain an adequate supply of the TEMP GAIN 87 (Claim Form) on hand for distribution to potential claimants.
- .337 CWDs shall specify on the TEMP GAIN 87 (Claim Form) the address where claimants are to return the completed claim form.

.4 Application for Corrective Underpayment.

.41 Claimants' Responsibilities. Claimants shall:

- .411 Complete and sign under the penalty of perjury a TEMP GAIN 87 (Claim Form).
- .412 Submit the TEMP GAIN 87 (Claim Form) on or before the end of the claim period to the responsible CWD.
- (a) If mailed, the postmark must be no later than April 14, 1995.
- (b) During the claim period, claimants shall be permitted to resubmit a claim that was previously denied due to being incomplete when the claimant did not submit the necessary information within 30 days.
- .413 Submit a completed TEMP GAIN 87 (Claim Form) to each responsible CWD, if there was more than one responsible CWD.
- .414 Provide necessary additional information, documentation or clarification upon request from a CWD.

.42 CWDs' Responsibilities. CWDs shall:

.421 Stamp the TEMP GAIN 87 (Claim Form) with the date received by the CWD.

(a) If the date of receipt cannot be determined by a date stamp, the date of receipt shall be the date the claimant signed the TEMP GAIN 87 (Claim Form).

.422 Notwithstanding the date specified in Section 50-025.421, process all claim forms postmarked on or before April 14, 1995.

(a) If the TEMP GAIN 87 (Claim Form) is postmarked after April 14, 1995, issue NOA M50-025D (Deny Claim) within 30 days following receipt of the claim.

(b) The CWD shall retain envelopes postmarked after April 14, 1995.

.423 Retain all records which contain documents relevant to the CCWRO lawsuit for three years from the date CDSS submits the last expenditure report for federal reimbursement.

(a) Documents included are those used to determine eligibility for the class (including denials) and those used to determine the amount of corrective underpayments; including case records, payment records, assistance claims, reimbursement claims, claim verification and any other documents related to this lawsuit.

.424 Determine the Responsible CWD.

(a) If the CWD receiving the TEMP GAIN 87 (Claim Form) determines that it is the responsible CWD, the CWD shall process the claim form in accordance with Section 50-025.5.

(1) "Responsible CWD" is defined in Section 50-025.2r.(1).

(b) If the CWD receiving the TEMP GAIN 87 (Claim Form) determines that it is not the responsible CWD, the receiving CWD shall issue NOA M50-025D (Deny Claim) and forward the TEMP GAIN 87 (Claim Form) to the responsible CWD within 30 days from the date the claim was received.

(1) The receiving CWD shall inform the claimant on NOA M50-025D (Deny Claim) that the TEMP GAIN 87 (Claim Form) has been forwarded to the responsible CWD for processing.

(2) The responsible CWD shall process the claim form in accordance with Section 50-025.5.

(A) Notwithstanding Section 50-025.422, responsible CWDs shall process all claims that are forwarded from a receiving CWD, regardless of whether the responsible CWD receives the claim from the receiving CWD by the end of the claim period.

(3) If the responsible CWD cannot be determined, the receiving CWD shall issue NOA M50-025D (Deny Claim) within 30 days following receipt of the claim.

(A) The CWD shall indicate on the NOA that the claimant must file his/her claim with the responsible CWD.

.5 Processing Claim Forms.

.51 The responsible CWD shall review each TEMP GAIN 87 (Claim Form) for completeness. The TEMP GAIN 87 (Claim Form) shall be considered complete when the following information is given:

.511 Answers to the qualifying class member questions on the TEMP GAIN 87 (Claim Form).

.512 Claimant's case name(s) used during retroactive period.

.513 Claimant's date of birth.

.514 Claimant's social security number.

.515 Claimant's current mailing address.

.516 County or counties of residence during retroactive period.

.517 Claimant's signature.

.518 The following information shall be provided by the claimant on the TEMP GAIN 87 (Claim Form) to the extent possible:

(a) The AFDC or GAIN case number.

(b) Phone number.

(c) Date(s) for which the claim is being filed.

.52 If the claim is complete, as specified in Section 50-025.51, and the claimant meets the definition of class member specified in Section 50-025.2(c)(2), the responsible CWD shall complete processing the claim within 90 days after receipt of the claim.

- .521 If the information on the claim form and in the case file is sufficient, the CWD shall calculate the corrective underpayment, in accordance with Section 50-025.6, and issue a check with NOA M50-025A (Approve Claim) within 45 days after the date payment is authorized.
- (a) CWDs shall indicate on the NOA when the check will be issued if unable to issue the check for the corrective underpayment with the NOA.
- .522 In the absence of evidence to the contrary, the CWD shall accept self-certification from the claimant, signed under the penalty of perjury, to satisfy documentary requirements in the event such documentation is not available.
- .523 The CWD shall verify documentation whenever authenticity is in doubt.
- .53 If the claimant is NOT a class member, the CWD shall issue NOA M50-025D (Deny Claim) within 90 days after the claim was received.
- .531 The CWD shall preprint the GAIN 50 (6/92) Your GAIN Hearing Rights to the back of the NOA or attach a copy of the GAIN 50 to the NOA.
- .54 If additional information is needed, the CWD shall issue NOA M50-025B (Request Claim Information) within 30 days after receipt of the claim.
- .541 The CWD shall indicate on the NOA that claimants have 30 days from the date of the NOA to respond to the request for additional information.
- .542 The CWD shall complete processing a claim within 90 days after receiving the additional information.
- .543 If the claimant meets the definition of a class member specified in Section 50-025.2c.(2), the CWD shall issue the corrective underpayment in accordance with the procedures specified in Section 50-025.521.
- .544 The CWD shall issue NOA M50-025D (Deny Claim) if the information does not establish the claimant as a class member.
- .545 The CWD shall issue NOA M50-025D (Deny Claim) if the claimant does not respond within the time specified in Section 50-025.541
- .55 For the purpose of determining continued eligibility and the amount of assistance for the AFDC Program, CWDs shall not consider a corrective underpayment as income or as a resource in the month paid or in the following month.
- .56 For the Food Stamp Program, a retroactive corrective underpayment shall be excluded as income for all Food Stamp households and excluded as a resource for categorically eligible Food Stamp households as long as they remain eligible for AFDC.



.6 Computation of Corrective Underpayments.

- .61 There is no minimum amount a class member may receive as a corrective underpayment.
- .62 The claimant shall not be entitled to corrective underpayment for any portion of the sanction amount which was previously repaid under another lawsuit.
- .63 CWDs shall determine the length of the sanction period for which a class member, as defined in Section 50-025.2(c)(2), shall be entitled to recover withheld cash aid.
- .631 For sanctions applied before July 1, 1989, CWDs shall consider the end of the sanction period for which a class member shall be entitled to recover cash aid to be:
- (a) For a first financial sanction, the end of the three-month sanction period.
  - (b) For a second or subsequent financial sanction, the end of the six-month sanction period.
- .632 For sanctions applied on or after July 1, 1989, CWDs shall consider the end of the sanction period for which a class member shall be entitled to recover cash aid to be:
- (a) For a sanction resulting from a first instance of noncompliance without good cause, the date the sanction was cured, as specified in Section 42-786.22, or the end of the month following application of the sanction, whichever comes first.
  - (b) For a sanction resulting from a second instance of noncompliance without good cause, the end of the three-month sanction period specified in Section 42-786.23.
  - (c) For a sanction resulting from a third or subsequent instance of noncompliance without good cause, the end of the six-month sanction period specified in Section 42-786.24.
- .64 CWDs shall balance the corrective underpayment against an outstanding overpayment as follows:
- .641 The corrective underpayment shall be balanced with an AFDC overpayment as specified in Section 44-340.42.

.642 The CWDs shall attempt to obtain a written agreement of the class member to balance a GAIN supportive services overpayment with the corrective underpayment.

(a) If the class member does not agree to balance the corrective underpayment with his/her GAIN supportive services overpayment, the CWD shall issue the corrective underpayment to the class member in full.

.65 CWDs shall pay interest to those class members who are no longer on AFDC at the time of payment. To pay interest, CWDs shall:

.651 Begin interest in the month subsequent to the end of the sanction period, as determined in Section 50-025.63.

.652 Determine the month in which the payment is authorized.

.653 To determine the appropriate interest amount and corrective underpayment:

(a) Determine the Initial Interest Month (the month following the end of the sanction period);

(b) Determine the Payment Authorization Month (the month the corrective underpayment will be authorized);

(c) Determine the interest percentage factor on the "Interest Chart for CCWRO Corrective Underpayment" where the dates from (a) and (b) meet;

(d) Multiply the amount of cash aid withheld during the sanction period by the interest percentage factor; and

(e) Add the cash aid withheld to the interest to be paid to determine the corrective underpayment.

HANDBOOK BEGINS HERE

.654 EXAMPLE: A CWD determines that a class member who is no longer on aid was sanctioned from September 1, 1987 to November 30, 1987 at \$200.00 per month. Total cash aid withheld was \$600.00.

To Calculate the Corrective Underpayment:

(a) Initial Interest Month - December 1987

(b) Payment Month- January 1995

<u>(c) Total Cash Aid Withheld</u>	<u>\$600.00</u>
<u>(d) Interest Percentage Factor</u>	<u>X .5266</u>
<u>(e) Interest To Be Paid</u>	<u>+\$315.96</u>
<u>(f) Corrective Underpayment</u>	<u>\$915.96</u>

.655 Interest Chart for CCWRO Corrective Underpayments

<u>Initial</u> <u>Interest</u> <u>Month</u>	<u>Payment Authorization Month</u>					
	<u>Jan-95</u>	<u>Feb-95</u>	<u>Mar-95</u>	<u>Apr-95</u>	<u>May-95</u>	<u>Jun-95</u>
Jul-85	.6958	.7042	.7125	.7208	.7292	.7375
Aug-85	.6900	.6984	.7067	.7150	.7234	.7317
Sep-85	.6841	.6925	.7008	.7091	.7175	.7258
Oct-85	.6783	.6867	.6950	.7033	.7117	.7200
Nov-85	.6725	.6809	.6892	.6975	.7059	.7142
Dec-85	.6666	.6750	.6833	.6916	.7000	.7083
	<u>Jan-95</u>	<u>Feb-95</u>	<u>Mar-95</u>	<u>Apr-95</u>	<u>May-95</u>	<u>Jun-95</u>
Jan-86	.6608	.6692	.6775	.6858	.6942	.7025
Feb-86	.6550	.6634	.6717	.6800	.6884	.6967
Mar-86	.6491	.6575	.6658	.6741	.6825	.6908
Apr-86	.6433	.6517	.6600	.6683	.6767	.6850
May-86	.6375	.6459	.6542	.6625	.6709	.6792
Jun-86	.6316	.6400	.6483	.6566	.6650	.6733
Jul-86	.6258	.6342	.6425	.6508	.6592	.6675
Aug-86	.6200	.6284	.6367	.6450	.6534	.6617
Sep-86	.6141	.6225	.6308	.6391	.6475	.6558
Oct-86	.6083	.6167	.6250	.6333	.6417	.6500
Nov-86	.6025	.6109	.6192	.6275	.6359	.6442
Dec-86	.5966	.6050	.6133	.6216	.6300	.6383

	<u>Jan-95</u>	<u>Feb-95</u>	<u>Mar-95</u>	<u>Apr-95</u>	<u>May-95</u>	<u>Jun-95</u>
<u>Jan-87</u>	.5908	.5992	.6075	.6158	.6242	.6325
<u>Feb-87</u>	.5850	.5934	.6017	.6100	.6184	.6267
<u>Mar-87</u>	.5791	.5875	.5958	.6041	.6125	.6208
<u>Apr-87</u>	.5733	.5817	.5900	.5983	.6067	.6150
<u>May-87</u>	.5675	.5759	.5842	.5925	.6009	.6092
<u>Jun-87</u>	.5616	.5700	.5783	.5866	.5950	.6033
<u>Jul-87</u>	.5558	.5642	.5725	.5808	.5892	.5975
<u>Aug-87</u>	.5500	.5584	.5667	.5750	.5834	.5917
<u>Sep-87</u>	.5441	.5525	.5608	.5691	.5775	.5858
<u>Oct-87</u>	.5383	.5467	.5550	.5633	.5717	.5800
<u>Nov-87</u>	.5325	.5409	.5492	.5575	.5659	.5742
<u>Dec-87</u>	.5266	.5350	.5433	.5516	.5600	.5683

	<u>Jan-95</u>	<u>Feb-95</u>	<u>Mar-95</u>	<u>Apr-95</u>	<u>May-95</u>	<u>Jun-95</u>
<u>Jan-88</u>	.5208	.5292	.5375	.5458	.5542	.5625
<u>Feb-88</u>	.5150	.5234	.5317	.5400	.5484	.5567
<u>Mar-88</u>	.5091	.5175	.5258	.5341	.5425	.5508
<u>Apr-88</u>	.5033	.5117	.5200	.5283	.5367	.5450
<u>May-88</u>	.4975	.5059	.5142	.5225	.5309	.5392
<u>Jun-88</u>	.4916	.5000	.5083	.5166	.5250	.5333
<u>Jul-88</u>	.4858	.4942	.5025	.5108	.5192	.5275
<u>Aug-88</u>	.4800	.4884	.4967	.5050	.5134	.5217
<u>Sep-88</u>	.4741	.4825	.4908	.4991	.5075	.5158
<u>Oct-88</u>	.4683	.4767	.4850	.4933	.5017	.5100
<u>Nov-88</u>	.4625	.4709	.4792	.4875	.4959	.5042
<u>Dec-88</u>	.4566	.4650	.4733	.4816	.4900	.4983

	<u>Jan-95</u>	<u>Feb-95</u>	<u>Mar-95</u>	<u>Apr-95</u>	<u>May-95</u>	<u>Jun-95</u>
Jan-89	.4508	.4592	.4675	.4758	.4842	.4925
Feb-89	.4450	.4534	.4617	.4700	.4784	.4867
Mar-89	.4391	.4475	.4558	.4641	.4725	.4808
Apr-89	.4333	.4417	.4500	.4583	.4667	.4750
May-89	.4275	.4359	.4442	.4525	.4609	.4692
Jun-89	.4216	.4300	.4383	.4466	.4550	.4633
Jul-89	.4158	.4242	.4325	.4408	.4492	.4575
Aug-89	.4100	.4184	.4267	.4350	.4434	.4517
Sep-89	.4041	.4125	.4208	.4291	.4375	.4458
Oct-89	.3983	.4067	.4150	.4233	.4317	.4400
Nov-89	.3925	.4009	.4092	.4175	.4259	.4342
Dec-89	.3866	.3950	.4033	.4116	.4200	.4283

	<u>Jan-95</u>	<u>Feb-95</u>	<u>Mar-95</u>	<u>Apr-95</u>	<u>May-95</u>	<u>Jun-95</u>
Jan-90	.3808	.3892	.3975	.4058	.4142	.4225
Feb-90	.3750	.3834	.3917	.4000	.4084	.4167
Mar-90	.3691	.3775	.3858	.3941	.4025	.4108
Apr-90	.3633	.3717	.3800	.3883	.3967	.4050
May-90	.3575	.3659	.3742	.3825	.3909	.3992
Jun-90	.3516	.3600	.3683	.3766	.3850	.3933
Jul-90	.3458	.3542	.3625	.3708	.3792	.3875
Aug-90	.3400	.3484	.3567	.3650	.3734	.3817
Sep-90	.3341	.3425	.3508	.3591	.3675	.3758

HANDBOOK ENDS HERE

.66 Class members shall not be entitled to more corrective underpayment than the amount of cash aid withheld during the sanction period, as specified in this section, plus interest, as determined in Section 50-025.65.

.7 Statistical Reports.

.71 CWDs shall submit the GEN 1172 (5/93) Court Case: CCWRO v. Anderson no later than July 14, 1995 to the CDSS Statistical Services Bureau.

.72 CWDs shall report on the disposition of all claims received during the claim period, from January 14, 1995 through April 14, 1995.

.73 The report shall include:

.731 The total number of:

(a) TEMP GAIN 87s (Claim Form) mailed by CWD.

(b) TEMP GAIN 87s (Claim Form) handed out by CWD.

(c) TEMP GAIN 87s (Claim Form) received by CWD.

(d) Claims approved.

(e) Claims denied. CWDs shall include the number of claims denied for each of the following reasons:

(1) Untimely. Includes claim forms received after claim period.

(2) Not a class member.

(3) Claim sent to wrong CWD and receiving CWD was not able to determine the responsible CWD to which the TEMP GAIN 87 (Claim Form) should be forwarded.

(4) Claim sent to wrong CWD and receiving CWD forwarded to responsible CWD.

(5) Incomplete. Includes claims that are not complete, as specified in Section 50-025.51, and there is no forwarding address to obtain the additional information needed; and incomplete claims for which additional information was requested but not received before the deadline specified on the notice.

(6) Other.

.732 Total amount of corrective underpayments paid (including interest).

.733 Total amount of overpayments offset with corrective underpayments.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: CCWRO v. Anderson, Sacramento County Superior Court, Case No. 512491.

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

ORIGINAL

For use by Secretary of State only

STD. 400 (REV. 2/81)

AGENCY

California Department of Social Services

AGENCY FILE NUMBER (if any)

RDB #0594-14

OAL FILE  
NUMBERS

NOTICE FILE NUMBER

REGULATORY ACTION NUMBER

EMERGENCY NUMBER

PREVIOUS REGULATORY ACTION NUMBER

95-0104-03E

94-1220-03E

For use by Office of Administrative Law (OAL) only

APPROVED

1995 JAN 2 35  
APPROVED FOR FILING  
AND PUBLICATION  
ADMINISTRATIVE LAW  
JAN - 5 1995

Office of Administrative Law

NOTICE

REGULATIONS

FILED  
In the office of the Secretary of State  
of the State of California

JAN 5 1995

At 3:44 P.M.  
Curt Jones, Secretary of StateRobert Cornick  
Deputy Secretary of State

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE AFDC-IPV Regulations		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)	
TITLE(S) MPP	ADOPT 22-215, 22-301, 22-305, 22-310, 22-315, 22-320, 22-325, 22-330, 22-335, 22-340, and 22-345
SECTIONS AFFECTED	AMEND 22-003, 22-201, 22-202, and 22-210
	REPEAL

## 2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346)  
☐ Resubmittal  
☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)  
☒ Emergency (Gov. Code, § 11346.1(b))  
☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.  
☐ Print Only  
☐ Other (specify)

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State  
☒ Effective on filing with Secretary of State  
☐ Effective other (Specify)

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☒ Department of Finance (Form STD. 399)  
☐ Fair Political Practices Commission  
☐ State Fire Marshal  
☐ Other (Specify)

6. CONTACT PERSON

Frank Vitulli, Chief, Office of Regulations Development

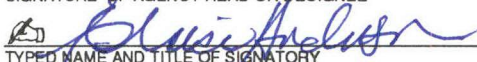
TELEPHONE NUMBER

657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE



TYPED NAME AND TITLE OF SIGNATORY

ELOISE ANDERSON, Director

DATE

JAN 04 1995



## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91) (REVERSE)

INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Amend Section 22-003.11 to read:

22-003 RIGHT TO A STATE HEARING

22-003

.1 (Continued)

- .11 There is no right to a state hearing regarding a ~~/Food \$Stamp or AFDC~~ administrative disqualification, unless the issue is the CWD's method of implementing a ~~/Food \$Stamp or AFDC~~ administrative disqualification hearing decision. (See Division 22, Chapters 22-200 and 22-300, Division 20, Chapter 20-300, and Division 63, Section 63-805.)

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 10613, 11209, and 11511(a), Welfare and Institutions Code; and 45 CFR 235.112(c)(2) and 45 CFR 255.4(j)(1) and 256.4(b).

Amend Section 22-201 to read:

22-201 GENERAL PROVISIONS

22-201

.1 An administrative disqualification hearing (ADH) at the state level shall be initiated when a CWD informs the ~~Office of the Chief Referee~~ Administrative Adjudications Division (AAD) of the California Department of Social Services (CDSS) that clear and convincing documentary evidence in the CWD's possession indicates that an administrative disqualification is appropriate.

.11 The Department shall then assume responsibility for the overall administration of the disqualification hearing process and the conduct of each hearing at the state level.

.2 An ADH at the local level shall be initiated when a CWD informs the CWD-designated unit responsible for scheduling and conducting an ADH that clear and convincing documentary evidence in the CWD's possession indicates that an administrative disqualification is appropriate.

.21 The CWD shall assume responsibility for the overall administration of the disqualification hearing process and the conduct of each hearing at the local level.

~~11.3~~ (Continued)

~~11.31~~ (Continued)

~~11.32~~ (Continued)

~~11.33~~ (Continued)

~~12~~ (Continued)

~~12.41~~ (Continued)

~~12~~

~~12.411~~ Administrative Disqualification Decision - Means the written decision issued by the ~~Hearing Officer~~ Administrative Law Judge (ALJ) after an administrative disqualification hearing at the state level and by the CWD-designated hearing official after a local level hearing.

~~12~~

~~12.412~~ Notice of Hearing - Means the written notification sent to the respondent and the CWD by the Department which initiates an administrative disqualification hearing (see Section 22-202.3)/ and is provided as follows:

(a) At the state level, CDSS shall provide written notification to the respondent and the CWD and

(b) At the local level, the CWD shall provide written notification to the respondent and the CWD-designated unit responsible for presenting the case at the local level hearing.

117  
.413 (Continued)

.75 Procedures Governing State Hearings Also Applicable to Administrative Disqualification Hearings

(a) The following provisions of Chapter 22-000 shall be applicable to administrative disqualification hearings: (Continued)

(7) Section 22-049 relating to general rules and procedures at the hearing, excluding .11; (Continued)

~~111 Sections 22-053.11 and 114 relating to postponements/~~

(121) (Continued)

(132) (Continued)

(143) (Continued)

.6 Both the CWD's representative and the claimant's representative shall have the right to designate another person to be present and advise the representative throughout the hearing. This individual may be a witness who testifies on behalf of the county or claimant and in this circumstance, Section 22-049.12 would not apply. If this individual is a witness, then he/she may not be present as an adviser until after he/she has testified.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 7 CFR 273.16(e)(10)(i).

Amend Sections 22-202.11, .2 et seq., and .3 et seq. to read:

22-202 NOTICE OF ADMINISTRATIVE DISQUALIFICATION HEARING (Continued)

22-202

.1 (Continued)

.11 Notify the Chief Administrative Law Judge Referee in writing; and,  
(Continued)

.2 ~~Upon receipt of the notification described in Section 22-202.11, the Department shall either:~~

CDSS shall monitor that the requests sent pursuant to Section 22-201.1 are appropriate for IPV consideration in that they represent cases in which clear and convincing evidence has been identified to warrant the scheduling of such hearing.

.21 ~~Schedule an Administrative Disqualification Hearing (ADH) or~~

Upon receipt of the notification described in Section 22-201.1, the Department shall schedule an administrative disqualification hearing.

~~122 Review the charges and the evidence submitted by the CWD/~~

~~1221 If the Department determines that there is insufficient evidence described to support the charges, the CWD shall be so notified/~~

~~1222 If the Department determines that there is sufficient evidence described to support the charges, the CWD shall be so notified/ and the Department shall schedule an ADH/ Referee Department shall schedule an ADH/~~

~~1223~~

.3 Waiver of Right to an Administrative Disqualification Hearing

.31 A waiver request form shall be sent with the Notice required by Section 22-202.34 to the respondent. This waiver request form shall be a written notification which informs respondent of the possibility of waiving the ADH. This waiver request form shall include:

- (a) The information that the respondent has ~~twenty~~ 20 days from the date of the notice to submit the signed waiver form to the Department in the case of a state level hearing or to the CWD in the case of a local level hearing. If the respondent fails to sign and return the waiver request to the Department within ~~twenty~~ 20 days from the date of the notice, the ADH shall be held as scheduled. (Continued)

~~123~~ .32 If the respondent voluntarily and knowingly submits a signed waiver of his/her right to an ADH within the ~~twenty~~ 20-day period to the Department in a state level hearing, or to the CWD in a local level hearing, the Department in a state level hearing, or the CWD in a local level hearing, shall submit a signed copy of the waiver to the CWD and shall notify the CWD to initiate the notification of disqualification action and imposition of disqualification penalties in accordance with §CDSS' Manual of Policies and Procedures, Division 20, Sections 20-300.24, .3, and .4.

~~124~~ .33 (Continued)

.34 The CWD may inform the respondent by written notice that a request for a state/local level ADH has been filed by the CWD and that he/she may waive the right to an ADH through a pre-hearing waiver process.

.341 The written notice shall be provided in person or by mail pursuant to Section 22-202.411 et seq., except Section 22-202.411(a).

(a) The notice may contain a request for the respondent to contact a specified representative of the CWD to set a meeting date, time, and location.

.342 The waiver shall be as described in Section 22-202.3.

~~.34~~ (Continued)

~~.341~~ (Continued)

~~.3411~~ (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 7 CFR 273.16(f).

Adopt Handbook Section 22-210.12 to read:

22-210 HEARING PROCEDURE (Continued)

22-210

.1 (Continued)

HANDBOOK BEGINS HERE

.12 See Section 22-330 for instances when a Food Stamp ADH can be combined with an AFDC ADH.

HANDBOOK ENDS HERE

Adopt new Section 22-215 to read:

22-215 LOCAL LEVEL HEARINGS

22-215

- .1 Subject to CDSS approval of a county's ADH plan, counties may choose to provide ADHs at the local level with a right to appeal to a state level de novo hearing.
- .2 If a local level disqualification hearing determines that a household member committed an IPV, the notification of hearing decision specified in Section 22-220.2 shall also inform the household member:
  - .21 Of the right to appeal the local level decision within 15 days after the receipt of the notice (see Section 22-340.6);
  - .22 Of the date the disqualification shall take effect unless a state level hearing is requested; and
  - .23 That benefits shall be continued pending a state level de novo hearing if the household is otherwise eligible.
- .3 If the household member appeals the local level decision, the advance notice of hearing, as specified in Section 22-202 shall be provided at least 10 days in advance of the scheduled state level hearing and shall also inform the household member that the local hearing decision shall be upheld if the household or its representative fails to appear without good cause for the hearing.
- .4 The local level hearing decision shall be made within 90 days from the date of the notice scheduling the hearing.
- .5 When a local level decision is appealed, CDSS shall conduct the state level hearing, arrive at a decision, and notify the household member and local agency of the decision within 60 days of the date the household member appealed its case.
  - .51 The local level decision shall not be taken into consideration by the state ALJ in making the final determination.
- .6 In all other respects, local level disqualification hearings shall be handled in accordance with the procedures specified in this chapter for state level hearings.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 7 CFR 273.16(e)(10)(i).



Adopt new Chapter 22-300 and new Section 22-301 to read:

CHAPTER 22-300 AFDC ADMINISTRATIVE DISQUALIFICATION HEARINGS - GENERAL

22-301 ADMINISTRATIVE DISQUALIFICATION HEARINGS (ADHs) - GENERAL

22-301

- .1 The regulations in this chapter shall apply to hearings resulting from a county welfare department's (CWD's) determination, supported by documentation, that an individual has allegedly committed an intentional program violation (IPV) in the AFDC program as set forth in the California Department of Social Services (CDSS) Manual of Policies and Procedures, Division 20, Chapter 20-350.
- .2 Administrative disqualification hearings are distinct from the state hearings discussed in Chapter 22-000.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 235.112(a).

Adopt new Section 22-305 to read:

22-305 GENERAL PROVISIONS

22-305

- .1 An ADH at the state level shall be initiated when a CWD informs the Department that sufficient evidence in the CWD's possession indicates that an administrative disqualification is appropriate.
  - .11 The Department shall then assume responsibility for the overall administration of the disqualification hearing process and the conduct of each hearing at the state level.
- .2 An ADH at the local level shall be initiated when a CWD informs the CWD-designated unit responsible for scheduling and conducting an ADH that sufficient evidence in the CWD's possession indicates that an administrative disqualification is appropriate.
  - .21 The CWD shall assume responsibility for the overall administration of the disqualification hearing process and the conduct of each hearing at the local level.
- .3 In both state and local level hearings, the CWD shall remain responsible for:
  - .31 Investigating the case and assisting the respondent prior to the hearing;
  - .32 Presenting the CWD's position during the hearing; and
  - .33 Complying with the hearing decision.
- .4 Definitions

The definitions in Section 22-001 shall apply unless they are specifically provided for in this chapter. The following additional definitions, in alphabetical order, shall apply wherever the terms are used in this chapter:

  - .41 Administrative Disqualification Decision - Means the written decision issued by the Administrative Law Judge (ALJ) after an ADH at the state level and by the CWD-designated hearing official after a local level hearing.
  - .42 Intentional Program Violation (IPV) - Means an action by an individual, for the purpose of establishing or maintaining the family's eligibility for AFDC or for increasing or preventing a reduction in the amount of the grant, which is intentionally:
    - .421 A false or misleading statement or misrepresentation, concealment, or withholding of facts, or
    - .422 Any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity.

HANDBOOK BEGINS HERE

(a) To determine what constitutes an IPV, CDSS recognizes a distinction in the following:

(1) Intentional concealment or willful misrepresentation which may result in an IPV.

EXAMPLE: In completing the Monthly Eligibility Reports (CA 7), respondent checks the box indicating family has no income. Respondent also checks box indicating that no one had started employment that month. County evidence indicates respondent did start work during the month it was reported that no one had started work. Respondent also did receive earnings in each of the months under review.

(2) Incorrect representation, negligence, or omissions because of a mistake or a lack of understanding of eligibility requirements which do not result in an IPV.

EXAMPLE: Respondent reports that he/she began employment the last week of the reporting month, and that he/she will be paid every two weeks. Respondent completes the next CA 7 and checks the "No" box for income received in the month.

(3) The CWD's omission, neglect, or error in explaining requirements for assistance or in processing information, which does not result in an IPV.

EXAMPLE: Respondent completes CA 7 without answering question relating to household's receipt of income during the month. Respondent does this for five months and CWD fails to return the CA 7 as incomplete. Evidence establishes respondent had income in each of these months.

HANDBOOK ENDS HERE

.43 Notice of Hearing - Means the written notification, as specified in Section 22-315.5, which initiates an ADH and is provided as follows:

.431 At the state level, CDSS shall provide written notification to the respondent and the CWD and

.432 At the local level, the CWD shall provide written notification to the respondent and the CWD-designated unit responsible for presenting the case at the local level hearing.

.44 Respondent - Means the member(s) of the assistance unit (AU) who the CWD has determined may be subject to administrative disqualification. To the extent that the provisions of Chapter 22-000 relating to state hearings apply to administrative disqualification hearings, all references to "claimant" in such regulations shall be deemed to refer to "respondent" for purposes of the ADH.

.45 Sufficient Evidence - Means the documentary and other evidence in the CWD's possession that the CWD determines may establish that the respondent has committed an IPV based on a preponderance of evidence as the standard of proof.

.5 The following provisions of Chapter 22-000, State Hearings - General, shall be applicable to ADHs:

- (a) Section 22-002 relating to determination of time limit;
- (b) Section 22-010 relating to assignment of authorized representatives;
- (c) Section 22-023.13 relating to assignment of county representatives;
- (d) Sections 22-023.2 and .3 relating to duties of county representatives prior to and at the hearing;
- (e) Section 22-027 relating to situations where the hearing is held in a county other than the responsible county;
- (f) Sections 22-045.1 and .2 relating to the time and place of the hearing;
- (g) Section 22-049 relating to general rules and procedures at the hearing, excluding .11;
- (h) Section 22-050 relating to evidence;
- (i) Section 22-051 relating to the examination of records and issuance of subpoenas;
- (j) Section 22-052 relating to witness fees and mileage;
- (k) Section 22-053.2 relating to continuances for additional evidence;
- (l) Section 22-055 relating to disqualification of ALJs;
- (m) Section 22-059 relating to communications after the hearing.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 235.112(b) and 45 CFR 235.113(b)(2).

Adopt new Section 22-310 to read:

22-310 REQUIREMENT FOR NOTICES OF PENALTIES FOR IPVS

22-310

The CWD shall provide all applicants with a written notice of the disqualification penalties for IPVs under this section at the time of the application. Respondents who are recipients on the date of approval of the State Plan amendment implementing this optional program must be provided a written notice no later than the next redetermination for AFDC eligibility.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 235.112(d) and 45 CFR 235.113(b)(3).

Adopt new Section 22-315 to read:

22-315 NOTICE OF ADMINISTRATIVE DISQUALIFICATION HEARING

22-315

- .1 When the CWD determines, based on sufficient evidence, that a respondent is subject to disqualification from the AFDC program because of a suspected IPV and determines the respondent should be disqualified in accordance with Chapter 20-300, the CWD shall send the completed request for hearing to:
  - .11 The Administrative Adjudications Division of CDSS for the scheduling of an ADH at the state level; or
  - .12 The CWD-designated unit for the scheduling of an ADH at the local level.
- .2 The request specified in Section 22-315.1 shall set forth the charges against the respondent, contain a summary of the evidence, and identify the specific disqualification period believed to be appropriate.
- .3 CDSS shall monitor that the requests sent pursuant to Section 22-315.1 are appropriate for IPV consideration in that they represent cases in which sufficient evidence has been identified to warrant the scheduling of such hearings.
- .4 The ALJ in the state level hearing, or the hearing official in the local level hearing, shall base the determination of an IPV on the preponderance of evidence that is in the hearing record.
- .5 CDSS for the state level hearing, or the CWD for the local level hearing, shall provide a written notice to the respondent alleged to have committed the IPV at least 30 days prior to the date of the disqualification hearing which shall include the following:
  - (a) The date, time and location of the hearings;
  - (b) The charge(s) against the respondent;
  - (c) A summary of the evidence, and how and where the evidence can be examined;
  - (d) A warning that the respondent's failure to appear without good cause shall result in a decision by the ALJ or hearing official based solely on the information provided by the CWD at the hearing;
  - (e) A statement that the respondent may request a postponement of the hearing as specified in Section 22-325 provided that such request is made to CDSS, or CWD in the case of a local level hearing, at least 10 days in advance of the scheduled hearing;
  - (f) A statement that the respondent has 10 days from the date of the scheduled hearing to present to CDSS at the state level, or CWD in the case of a local level hearing, good cause for failure to appear in order to receive a new hearing.

- (g) A description of the penalties that can result from a determination that the respondent has committed an IPV and a statement of which penalty is applicable to the respondent.
- (h) A statement that the hearing does not preclude the county or state government from prosecuting the respondent for an IPV in a civil or criminal court action, or from collecting an overpayment;
- (i) A listing of individuals or organizations that provide free legal representation to individuals alleged to have committed IPV's:
- (j) An explanation that the respondent may waive his/her right to appear at an ADH (see Section 22-320); and
- (k) A statement of the respondent's right to remain silent concerning the charge(s) and that anything said or signed by the respondent concerning the charge(s) may be used against him/her in a court of law.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 235.113(b)(2), (b)(3)(i) and (ii), and (b)(8).

Adopted new Section 22-320 to read:

22-320 WAIVER OF THE ADMINISTRATIVE DISQUALIFICATION HEARING

22-320

- .1 The respondent shall be allowed to waive his/her right to appear at an ADH.
- .2 The respondent shall be informed by the written notice as specified in Section 22-315.5(j) of the opportunity to waive his/her right to a hearing.
- .21 The statement that the respondent may waive the right to appear at an ADH shall include at a minimum:
  - .211 The information that the respondent has 20 days from the date of the notice to submit the signed waiver form to the Department in the case of a state level hearing, or to the CWD in the case of a local level hearing. If the respondent fails to sign and return the waiver request within such time period, the ADH shall be held as scheduled.
  - .212 A signature block for the respondent's and the head of household's signature.
    - (a) A statement that the head of household must sign if the respondent is not the head of the household.
  - .213 A statement of the respondent's right to remain silent concerning the charge(s) and that anything said or signed by the respondent concerning the charge(s) may be used against him or her in a court of law;
  - .214 A statement of the fact that waiver of the respondent's right to appear at a disqualification hearing will result in a disqualification penalty and a reduction in the assistance payment for the appropriate period even if the respondent does not admit to the facts as presented by the CWD; and
  - .215 A statement specifying that the respondent has an opportunity to specify whether or not he/she admits to the facts as presented by the CWD.
- .3 The CWD may inform the respondent by written notice that a request for a state/local level ADH has been filed by the CWD and that he/she may waive the right to an ADH through a pre-hearing waiver process.
- .31 The written notice shall be provided in person or by mail pursuant to Section 22-315.5 et seq., except Section 22-315.5(a).
  - .311 The notice may contain a request for the respondent to contact a specified representative of the CWD to set a meeting date, time, and location.
- .32 The waiver shall be as described in Section 22-320.21.



.4 When the respondent waives his/her right to appear at a disqualification hearing, the disqualification and appropriate reduction of assistance shall result regardless of whether the respondent admits or denies the charges.

.41 CDSS, or the CWD in the case of a local level hearing, shall send a written notice informing the respondent of the period of disqualification (which shall begin no later than the first day of the second month which follows the date of notice), and the amount of payment the unit will receive during the disqualification period.

.42 If a case has been terminated the disqualification period shall be imposed after a reapplication for AFDC assistance is approved.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 235.113(c) (1), (2), and (3).

Adopt new Section 22-325 to read:

22-325 POSTPONEMENTS

22-325

- .1 An ADH at both the state and local level shall be postponed at the respondent's request provided that the request for postponement is made at least 10 days in advance of the date of the scheduled disqualification hearing.
- .2 The hearing shall not be postponed for more than a total of 30 days.
- .3 The number of postponements shall be limited to one.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 235.113(b)(4).

Adopt new Section 22-330 to read:

22-330 HEARING PROCEDURES

22-330

- .1 The hearing shall be conducted by an impartial ALJ at the state level, or a hearing official at the local level who has not had previous involvement in the case.
- .2 Medical assessments shall be obtained at the expense of CDSS and made part of the record if the ALJ or hearing official considers it necessary.
- .3 The respondent or his/her representative shall have adequate opportunity to:
  - .31 Examine the contents of the case file, and all documents and records to be used at the hearing by CDSS at the state level, or the CWD at the local level, at a reasonable time before the date of the hearing, and during the hearing;
  - .32 Present the case himself/herself or with the aid of an authorized representative;
  - .33 Bring witnesses;
  - .34 Establish all pertinent facts and circumstances;
  - .35 Advance any arguments without undue influence; and
  - .36 Question or refute any testimony or evidence, including the opportunity to confront and cross-examine adverse witnesses.
- .4 CDSS at the state level, or the CWD at the local level, shall combine an respondent's Food Stamp and AFDC ADHs into a single hearing if:
  - .41 The factual issues arise out of the same or related circumstances; and
  - .42 The AU receives prior written notice that the hearings will be combined.
- .5 CDSS at the state level may consolidate a respondent's state hearing governed by 45 CFR 205.10 with a disqualification hearing based on the same or related circumstances provided that the respondent receives prior written notice of the consolidation.
  - .51 If the hearings are combined, CDSS shall follow the time frames for conducting ADHs.
- .6 Both the CWD and the claimant shall have the right to have a representative present throughout the hearing.

- .7 Both the CWD's representative and the claimant's representative as specified in Section 22-330.6 shall have the right to designate another person to be present and advise the representative throughout the hearing. This individual may be a witness who testifies on behalf of the county or claimant and, in this circumstance, Section 22-049.12 would not apply. If this individual is a witness, then he/she may not be present as an adviser until after he/she has testified.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 235.112(a) and 45 CFR 235.113(b) (1), (5), (6), and (7).

Adopt new Section 22-335 to read:

22-335 LOCAL LEVEL HEARINGS

22-335

- .1 Subject to CDSS approval of a county's ADH plan, counties may choose to provide ADHs at the local level with a right to appeal to a state level de novo hearing.
- .2 If a local level disqualification hearing determines that a household member committed an IPV, the notification of hearing decision specified in Section 22-340.7 shall also inform the household member:
  - .21 Of the right to appeal the decision within 15 days after the receipt of the notice (see Section 22-340.6);
  - .22 Of the date the disqualification will take effect unless a state level hearing is requested;
  - .23 That benefits shall be continued pending a state level hearing if the household is otherwise eligible; and
  - .24 That if he/she or his/her authorized representative fails to appear without good cause for the hearing, the request for the state level de novo hearing shall be dismissed. In this situation the local level decision shall remain in effect as it has not been set aside by a later state level hearing.
- .3 If the household member appeals the local level decision, the advance notice of hearing, as specified in Section 22-315 shall be provided at least 10 days in advance of the scheduled state level hearing and shall also inform the household member that the local hearing decision shall be dismissed if the household or its representative fails to appear without good cause for the hearing.
- .4 When a local level decision is appealed, CDSS shall conduct the state level de novo hearing, arrive at a decision, and notify the household member and local agency of the decision within 60 days of the date the household member appealed its case.
  - .41 The local level decision shall not be taken into consideration by the state ALJ in making the final determination.
- .5 In all other respects, local level disqualification hearings shall be handled in accordance with the procedures specified in this chapter for state level hearings.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 7 CFR 273.16(e)(10)(i); 45 CFR 235.113(b), (b)(2), (b)(11), and (b)(12).

Adopt new Section 22-340 to read:

22-340 ADMINISTRATIVE DISQUALIFICATION HEARINGS - DECISIONS

22-340

- .1 Decisions made by the ALJ or hearing official shall be based exclusively on evidence and other material introduced in the hearing record.
  - .11 The transcript or recording of testimony, exhibits, or official reports introduced at the hearing, together with all papers and requests filed in the proceeding, and the decision of the ALJ or hearing official shall be made available to the respondent or to his/her representative at a reasonable time and place.
- .2 After the hearing has been closed, the ALJ or hearing official shall prepare a written decision.
- .3 Decisions by the hearing authority shall:
  - .31 In the event of a local level hearing, consist of a decision memorandum summarizing the facts and identifying the regulations supporting the decision;
  - .32 In the event of any CDSS hearing, specify the reasons for the decision and identify the supporting evidence and regulations; and
  - .33 Be made within 90 days from the date of the notice scheduling the hearing. (Sixty days from the request for a state level de novo hearing after a local level hearing decision.)
- .4 The Director or Chief Administrative Law Judge or his/her designee shall have the authority to reject the proposed decision of the ALJ and prepare a separate decision based upon the record in the case or to order an additional hearing.
- .5 A copy of the hearing decision shall be mailed to the respondent and to the CWD.
- .6 The CWD may not disqualify a respondent unless the decision of the ALJ finds that the respondent has committed an IPV or the respondent fails to request a state level de novo hearing within 15 days of the notice of an adverse local level hearing decision that proposes to disqualify the respondent.
  - .61 The CWD is not precluded from discontinuing, terminating, suspending, or reducing assistance, or changing the manner or form of payment to a protective, vendor, or two-party payment for other reasons.

HANDBOOK BEGINS HERE

- .611 For example, the CWD may have facts which substantiate that the AU failed to report a change in circumstances even though the CWD has not yet demonstrated that the failure to report was an IPV.

HANDBOOK ENDS HERE

- .7 If the decision of the ALJ, or hearing official at the local level hearing, finds that the respondent committed an IPV, the CWD shall provide a written notice to the respondent prior to disqualification.
- .71 The notice shall inform the respondent of the following:
- .711 The decision and the reason for the decision;
- .712 The period of disqualification (which shall begin no later than the first day of the second month which follows the date of notice); and
- .713 The amount of payment the AU will receive during the disqualification period.
- .72 In cases of a respondent's disqualification resulting from a prior receipt of assistance, the disqualification shall be postponed until after a reapplication for AFDC assistance is approved.
- .8 If the respondent does not appear at the state level or local level hearing, a reopening of the case may be requested within 10 days of the hearing by the respondent. If good cause is established, a new hearing shall be scheduled.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 235.113(b)(3)(ii)(F) and (b)(8) through (12).

Adopt new Section 22-345 to read:

22-345 DISQUALIFICATION PENALTIES

22-345

- .1 A respondent who, on the basis of a plea of guilty or nolo contendere or otherwise, is found to have committed an IPV pursuant to this chapter by a state or local level ADH or by a state or federal court shall be treated in the following manner:
  - .11 The CWD shall not take the respondent's needs into account when determining the AU's need and amount of assistance.
  - .12 Any resources and income of the disqualified respondent shall be considered available to the AU. The respondent's needs shall not be taken into account for six months for the first occasion of any such offense, one year for a second offense, and permanently for a third offense.
- .2 Any period for which a disqualification penalty is imposed shall remain in effect without possibility of an administrative stay unless, and until, the finding upon which the penalty was based is subsequently reversed by a court of appropriate jurisdiction; but in no event shall the duration of the period for which such penalty is imposed be subject to review.
- .3 A disqualification penalty imposed on a respondent by one Title IV-A (Social Security Act) state agency may be used in determining the appropriate disqualification penalty for the individual by another Title IV-A state agency.
  - .31 When a respondent with a prior violation(s) moves from one state to another and has been found to have committed an IPV(s), the state agency may impose the penalty based on the number of such violations committed in other states.
  - .32 A state may establish interstate agreements with other states to share appropriate information.
- .4 In cases where a disqualification penalty and other sanctions or penalties apply:
  - .41 The disqualification penalties in Section 22-345 shall be in addition to, and cannot be substituted for, any other sanctions or penalties which may be imposed by law for the same offenses; and
  - .42 The disqualification penalties imposed under this program only affect the respondent concerned and cannot substitute for other sanctions under the AFDC program (e.g., failure to participate in JOBS or to cooperate in obtaining child support).

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 235.112(c)(1) through (3).



## NOTICE PUBLICATION REGULATIONS SUBMISSION

(See instructions on reverse)

ORIGINAL  
For use by Secretary of State only

STD. 400 (REV. 2-91)

AGENCY

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

AGENCY FILE NUMBER (if any)  
0594-17OAL FILE  
NUMBERS

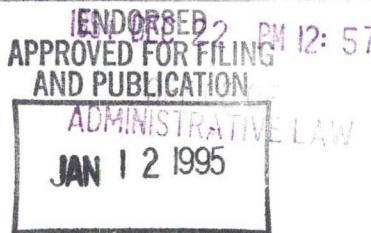
NOTICE FILE NUMBER

REGULATORY ACTION NUMBER

EMERGENCY NUMBER

PREVIOUS REGULATORY ACTION NUMBER

For use by Office of Administrative Law (OAL) only



Office of Administrative Law

NOTICE

REGULATIONS

FILED  
In the office of the Secretary of State  
of the State of California

JAN 12 1995

At 3:46 O'clock P.M.  
DICK JONES, Secretary of StateBy Roberta Cornick  
Deputy Secretary of State

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE Simplification of Food Stamp Household Definition		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 94-1222-032	PUBLICATION DATE 8-5-94

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

## 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S) MPP	ADOPT Section 63-028
SECTIONS AFFECTED	AMEND Sections 63-402.141 and .142
	REPEAL Section 63-402.145

## 2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346) 
 ☐ Resubmittal 
 ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) 
 ☐ Emergency (Gov. Code, § 11346.1(b))

☒ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify)

## 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs., title 1, §§ 44 and 45)

## 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State 
 ☒ Effective on filing with Secretary of State 
 ☐ Effective other (Specify)

## 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399) 
 ☐ Fair Political Practices Commission 
 ☐ State Fire Marshal

☐ Other (Specify)

## 6. CONTACT PERSON

Frank Vitulli, Office of Regulations Development

TELEPHONE NUMBER

657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE

December 21, 1994

PRINTED NAME AND TITLE OF SIGNATORY

JOISE ANDERSON, Director

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91) ( REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Add Section 63-028 to read:

63-028 IMPLEMENTATION OF SIMPLIFICATION OF FOOD STAMP  
HOUSEHOLD DEFINITION

63-028

.1 County welfare departments shall implement the amended regulations contained in Sections 63-402.141/ ~~§§402.142(a)~~ and ~~(b)~~ 63-402.142(a)(1), ~~and (2) of §402.142(c)~~ and ~~§§402.143~~ (3) as follows:

.11 For all food stamp applicants, the regulations become effective on September 1, 1994. Restored benefits are to be provided back to the date of application or September 1, 1994, whichever occurred later;

.12 For continuing cases ~~and any households entitled to restored benefits/~~ these provisions shall be implemented upon request by the household, at recertification, when the case is next reviewed, or when the county welfare department becomes aware that a review is needed, whichever occurs first.

Restored benefits back to September 1, 1994 shall be limited to new applications made on or after September 1, 1994.

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Public Law (P.L.) 103-66 and Food and Nutrition Service (FNS) Administrative Notice 94-39.

Amend Section 63-402.141 to read:

63-402      HOUSEHOLD CONCEPT (Continued)

63-402

.14      Separate household status shall not be granted to:

.141      Children (other than foster children) under 18 years of age living with a member of the household other than a parent who has parental control, as defined in Section 63-102(p);

.142      Parents living with their natural, adopted or stepchildren, or children living with their natural, adopted, or stepparents unless:

(a)      a child is:

(1)      22 years of age or older and purchases food and prepares meals for home consumption separately from his/her parents; or

(2)      21 years of age or less, purchases and prepares meals for home consumption separately from his/her parents and is:

(A)      married and living with his/her spouse; or

(B)      a parent of a minor child(ren)--for the purpose of this subsection, "parent of a minor child(ren)" includes an individual exercising parental control of any child under 18 years of age; or

(3)      participating in the other parent's Food Stamp household.

.143      through .144 (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference:      7 CFR 273.1(a)(1) through (2)(i)(C); 7CFR 273.1(a)(2)(ii) through (b)(1); 7 CFR 273.1(b)(2)(iii); 7 CFR 273.1(c); 7 CFR 273.1(c)(1); 7 CFR 273.1(d)(1) and (2); 7 CFR 273.1(e)(1); 7 CFR 273.1(g); 7 CFR 273.2(j)(4); 7 CFR 273.10(c)(1)(i); 7 CFR 274.5 and 7 CFR 274.10; Public Law (P.L.) 100-77, Section 802; P.L. 103-66; USDA Administrative Notice 94-39; USDA Administrative Notice 89/65/Policy Memo 89-11 and 89-12; and Sections 10554 and 18904, Welfare and Institutions Code.



## NOTICE PUBLICATION REGULATIONS SUBMISSION

STD. 400 (REV. 2-91)

## AGENCY

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

(See instructions on reverse)

Original  
For use by Secretary of State onlyOAL FILE  
NUMBERS

NOTICE FILE NUMBER

REGULATORY ACTION NUMBER

EMERGENCY NUMBER

AGENCY FILE NUMBER (if any)

1294-42

PREVIOUS REGULATORY ACTION NUMBER

95-0120-03E

For use by Office of Administrative Law (OAL) only



NOTICE

REGULATIONS

FILED

In the office of the Secretary of State  
of the State of California

JAN 3 1995

At 4:04 O'clock P.M.  
PHIL JONES, Secretary of StateBy Colvin L. Conner  
Deputy Secretary of State

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE GAIN-UWEX Regulations		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE	

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)	
TITLE(S) MPP	ADOPT Sections 42-775.35, .44 and .524
SECTIONS AFFECTED	AMEND Sections 42-710.3, 42-720.581, 42-730.274, and 42-741
	REPEAL

## 2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346)
 ☐ Resubmittal
 ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)
 ☒ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only
 ☐ Other (specify)

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

## 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State
 ☐ Effective on filing with Secretary of State
 ☒ Effective other (Specify) February 1, 1995

## 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399)
 ☐ Fair Political Practices Commission
 ☐ State Fire Marshal

☐ Other (Specify)

## 6. CONTACT PERSON

Frank Vitulli, Office of Regulations Development

TELEPHONE NUMBER

657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

TYPED NAME AND TITLE OF SIGNATORY

ELOISE ANDERSON, DIRECTOR

DATE

January 19, 1995

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91) (REVERSE)

INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS

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## ALL FILINGS

Enter the agency name and agency file number, if any.

## NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

## REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

## RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

## EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

## NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

## CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

## EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Amend Section 42-710.3 to read:

42-710 INTRODUCTION TO GAIN

42-710

.3 Definitions for Terms Used in This Chapter

(a) through (x) (Continued)

(y) "UWEX" means AFDC Unemployed Parent Work Experience component.

(z) "Volunteer" means an AFDC applicant or recipient who, though exempt from registration, voluntarily participates in GAIN.

Authority Cited: Sections 10553 and 10504, Welfare and Institutions Code.

Reference: Sections 11320, 11320.2, 11320.4, 11320.6, 11320.8, 11321, 11321.2, 11321.4, 11321.6, 11321.8, 11322, 11322.2, 11322.4, 11322.6, 11322.8, 11323, 11323.1, 11323.15, 11323.2, 11323.4, 11323.6, 11323.8, 11324, 11324.2, 11324.4, 11324.6, 11324.8, 11325, 11325.2, 11325.4, 11325.6, 11326, 11326.2, 11326.4, 11326.6, 11326.8, 11327, 11327.2, 11327.4, 11327.5, 11327.6, 11327.8, 11328, 11328.1, 11328.2, 11328.4, 11328.6, 11328.8, 11329, 11329.2, 11329.4, 11329.5, and 13280, Welfare and Institutions Code; 45 CFR 250.63(k); 42 U.S.C. 682(d)(1)(A)(ii)(IV).

Amend Section 42-720.581 to read:

42-720 THE GAIN COUNTY PLAN (Continued)

.5 (Continued)

.58 A plan will be approved only if it provides an adequate range of services.

.581 For large counties, as defined by DSS for AFDC cost control purposes, "an adequate range of services" means that the CWDs shall provide all of the job services, education, training, and supportive services described in Sections 42-730, ~~and~~ 42-750 and 42-775.35, except as provided in Section 42-730.61.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 11320.6(b), 11320.8(c), 11321, 11321.2, 11321.2(a), 11321.2(b), 11322.2(b), 11322.4, 11322.8, 11323.15, 11330.5(d), 11330.8(c), 11330.9, and 13280, Welfare and Institutions Code; 45 CFR 250.1; 45 CFR 250.11; 45 CFR 250.12(c); ~~and~~ 45 CFR 250.31(a); 45 CFR 250.44; 45 CFR 250.45; and 45 CFR 250.63(k).



Amend Section 42-730.274(a) to read:

42-730 GAIN JOB, TRAINING, AND EDUCATION SERVICES (Continued)

42-730

.2 Job Services shall include: (Continued)

.27 Subject to the GAIN Program participant flow process as described in Sections 42-771 through 774, participation in job search activity shall be limited as follows: (Continued)

.274 Counties shall not require any individual to participate in job search activity in excess of the limits specified in Sections 42-730.271 and .272 except as part of a CWD approved education, training or employment activity as follows:

(a) During a PREP or UWEX assignment; or (Continued)

.3 Training services shall include: (Continued)

.32 Preemployment Preparation (PREP) (Continued)

.323 The number of hours a person participates in a PREP assignment shall be determined by the appropriate formula provided in Section 42-7~~7~~30.323 (a) or (b): (Continued)

Authority Cited: Sections 10553, 10554 and 10604, Welfare and Institutions Code

Reference: Sections 11322.6(f), 11322.6(f)(2), 11322.8(h)(6), 11323, 11323.15, 11324.2(a)(2), 11324.4(b), 11324.6, and 11330.7, Welfare and Institutions Code; 45 CFR 250.60(c) and (d); 45 CFR 250.62(b)(2); ~~and~~ 45 CFR 251.3(a); and 45 CFR 250.63(k).

Amend Section 42-741 to read:

42-741 AGREEMENTS FOR PREP AND UWEX

42-741

- .1 Agreements between the CWD and providers of PREP or UWEX shall include the specific performance criteria in Section 42-740.1 and PREP shall be consistent with Section 42-730.32.

HANDBOOK BEGINS HERE

*111 Agreements are binding contracts even though they do not involve the exchange of money.*

HANDBOOK ENDS HERE

- .2 An agreement between the CWD and the employer of a participant in the UWEX component shall be consistent with the provisions of Section 42-775.35.

.21 At a minimum, the terms of the agreement shall include a brief description of the participant's position or duties, the assigned hours, and the method for verifying attendance.

.22 The agreement must be in writing, but an informal format, such as a form letter that is returned to the county after signature by the employer or the employer's representative, may be used.

.23 Employers shall conduct at a minimum an evaluation of the participant's progress at least quarterly or at midpoint for training assignments of three months or less and at the completion of the program. Participants shall provide the employer evaluation(s) to the county.

- .23 The CWD shall ensure that the sponsor of a PREP or UWEX assignment shall assist and encourage a qualified PREP or UWEX participant~~s~~ to compete for job openings occurring within the sponsor's organization.

HANDBOOK BEGINS HERE

- .4 Agreements are binding contracts even though they do not involve the exchange of money.

HANDBOOK ENDS HERE

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Section 11322.8 and 11328.6, Welfare and Institutions Code; 45 CFR 250.63(k); 42 U.S.C. 682(d)(1)(A)(ii)(IV).

Adopt Sections 42-775.35, .44, and .524 to read:

42-775 GAIN PARTICIPATION REQUIREMENTS FOR AFDC-U PARENTS (Continued) 42-775

- .3 Upon completion of appraisal or assessment, as appropriate, the parent shall be required to participate in at least one of the following employment activities for at least 16 hours per week:

.31 through .34 (Continued)

.35 A UWEX component as described in this section.

.351 UWEX shall be a nonsalaried work experience assignment with a public, private non-profit, or at county option, a private for-profit employer, that shall enhance and renew job skills, build work habits or expedite the transition to unsubsidized employment.

(a) UWEX assignments may include activities that provide a needed community service.

HANDBOOK BEGINS HERE

(1) Examples of appropriate UWEX community service assignments include, but are not limited to:

(A) nonsalaried work experience hours in a preschool, or an elementary or secondary school;

(B) nonsalaried work experience hours in a hospital, convalescent home or hospice program;

(C) nonsalaried work experience hours in public libraries; and,

(D) nonsalaried work experience hours in park and recreation districts.

HANDBOOK ENDS HERE

.352 A UWEX assignment with a private for-profit employer shall not exceed 13 weeks except that a county may extend an assignment a maximum of 13 additional weeks based upon the case manager's determination of the participant's need for additional job/work exposure and/or training.

.353 An assignment to UWEX shall be reviewed by the county at least annually to ensure that it continues to conform to the employment goal and to provide skills that will lead to unsubsidized employment.

.354 The number of hours a participant shall participate in a UWEX assignment shall be based on the employer's need, but shall not exceed 32 hours per week.

.355 Participants assigned to UWEX shall be expected to continue to seek employment.

(a) A participant may request job services, as described in Section 42-730.2, at any time during participation in the UWEX assignment.

(b) Hours of participation in job service activities shall not exceed the hours of participation in the UWEX activity.

(c) Job search activities during the UWEX assignment shall not be subject to the 40-day time limit specified in Section 42-730.272.

.356 A UWEX participant assigned to public agencies shall be allowed to:

(a) Participate in classified service examinations equivalent to the position he/she occupies.

(b) Participate in all open and promotional examinations for which experience in the position or other relevant experience is qualifying under merit system rules.

.357 A UWEX assignment shall not be created as a result of, or shall not result in, any of the conditions described in Section 42-730.329.

.4 Notwithstanding any other provisions of these regulations, concurrent participation in an employment activity listed in Section 42-775.3 and any other program activity may be required as needed to meet the participant's employment goal. (Continued)

.44 Combined hours of participation in all assigned activities, including independent job search as required by Section 42-775.355, shall not exceed 40 hours per week.

.5 For parents under age 25 who do not possess a high school diploma or equivalent, participation in education activities as described in Section 42-730.5 may be required in lieu of the activities specified in Section 42-775.3. (Continued)

.52 Notwithstanding any other provision of these regulations, concurrent participation in an educational activity pursuant to Section 42-775.5 and an employment activity described in Section 42-775.3 and/or any other program activity may be required. (Continued)

.524 Combined hours of participation in all assigned activities, including independent job search as required by Section 42-775.355, shall not exceed 40 hours per week.

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 11320.8(a), 11322.4 (f), 11322.6(f)(2), 11322.8, 11322.8(f) and (g), 11323.15, 11324.6, 11325, 11325.2(c) (7) and (c) (9), 11325.8(b), 11326, 11326.8, and 11327.4(a), Welfare and Institutions Code; 45 CFR 250.20(e)(2)(ii); 45 CFR 250.21(d)(5); 45 CFR 250.33, 45 CFR 250.41; 45 CFR 250.60(d); 45 CFR 250.63(k); 45 CFR 250.63(k)(1); and 45 CFR 250.74(c)(1); 45 CFR 251.3; 42 U.S.C. 603(l)(4)(A) and (B)(i); 42 U.S.C. 682(d)(1)(A)(ii)(IV); 42 U.S.C. 684(c)(1), (2) and (3); and JOBS-ACF-AT-93-7.

# EMERGENCY

STATE OF CALIFORNIA OFFICE OF ADMINISTRATIVE LAW  
NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91)

(See instructions on reverse)

For use by Secretary of State only

AGENCY State Department of Social Services				AGENCY FILE NUMBER (If any) 0993-36	
OAL FILE NUMBERS	NOTICE FILE NUMBER Z-93-1123-05	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 95-0131-01E	PREVIOUS REGULATORY ACTION NUMBER 94-1215-02C	
For use by Office of Administrative Law (OAL) only					
NOTICE			REGULATIONS		

1995 ENDORSED  
APPROVED FOR FILING 58  
AND PUBLICATION  
OFFICE OF  
ADMINISTRATIVE LAW  
FEB - 1 1995

Office of Administrative Law

**FILED**  
In the office of the Secretary of State  
of the State of California

FEB 2 1995

At 3:10 O'clock P.M.  
Elliott JONES, Secretary of State

By Robert L. Carver  
Deputy Secretary of State

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE Supplemental Child Care (SCC) Program		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE	

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

### 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S) MPP	ADOPT 40-021 & 44-500 through 44-509, consecutively.
SECTIONS AFFECTED	AMEND 40-131.3, 40-181.1, and 40-111.3.
	REPEAL

### 2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☒ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify) \_\_\_\_\_

### 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

### 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State ☐ Effective on filing with Secretary of State ☒ Effective other (Specify) February 1, 1995

### 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify) \_\_\_\_\_

### 6. CONTACT PERSON

Frank Vitulli, Chief, Office of Regulations Development

TELEPHONE NUMBER  
(916) 657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Eloise Anderson

TYPED NAME AND TITLE OF SIGNATORY

Eloise Anderson, Director

DATE

JAN 30 1995

**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

STD. 400 (REV. 2-91) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Amend Section 40-021.3 to read:

40-021 IMPLEMENTATION OF SUPPLEMENTAL CHILD CARE PROGRAM

40-021

- .1 The adoption of Chapter 44-500 and the amendment of Sections 40-131.3, 40-181.1, and 44-111.3 which implement the Supplemental Child Care (SCC) Program shall be effective November 4, 1993. Counties are required to meet the SCC informing requirements at application and redetermination beginning November 4, 1993.

HANDBOOK BEGINS HERE

- .2 Chapter 44-500 is being adopted to implement the Supplemental Child Care (SCC) Program to comply with the provisions of Welfare and Institutions Code Section 11451.7 (Chapter 69, Statutes of 1993).
- .3 Section 40-131 is being amended to require all AFDC ~~recipients~~ applicants be informed about the SCC Program at the time of AFDC ~~redetermination~~ application.
- .4 Section 40-181 is being amended to require that AFDC recipients are informed about their eligibility for SCC when they become employed.
- .5 Section 44-111 is being amended to exempt SCC payments from consideration of income for AFDC.

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11451.7, Welfare and Institutions Code.



Amend Section 40-131.3u. to read:

40-131 INTERVIEW REQUIREMENT (Continued)

40-131

.3 Content of Application Interview (Continued)

- u. The availability of ~~and the information necessary to request~~ supplemental child care payment for working recipients who have child care costs as specified in Section 44-507.111 and the Monthly Child Care Eligibility Report (SCC 6) necessary to request the supplemental child care payments.

Authority Cited: Sections 10553, 10554, 10604, and 18904, Welfare and Institutions Code.

Reference: Sections 10613, 11209, 11324.8(a), AB 312, Chapter 1568, Statutes of 1990, 11451.7, 11500(b), and 11511(a), Welfare and Institutions Code; 7 USC 2020(i), 7 CFR 273.2(j), 42 USC 616(f), 682(c)(2), (3) and (4), 45 CFR 250.20, 45 CFR 250.40(a) and (b); 45 CFR 255.1; 45 CFR 256.1(b).

Amend Section 40-181.1(1) to read:

40-181 CONTINUING ACTIVITIES AND DETERMINATION OF ELIGIBILITY (Continued) 40-181

.1 General County Responsibility (Continued)

- (1) The county shall inform recipients of the availability of/ ~~and the information necessary to request/~~ supplemental child care payments to all assistance units which have reported earned income as specified in Section 44-507.113 and the Monthly Child Care Eligibility Report (SCC 6) necessary to request supplemental child care payments. (Continued)

Authority Cited: Sections 10553, 10554, 10604, 11265.1, and 18904, Welfare and Institutions Code.

Reference: ~~42~~ U.S.C. 616(b) and (f); 45 CFR 233.28 and 235.112(b); 7 CFR 273.16(b); and Sections 10553, 10554, 10604, 11451.7 and 11486, Welfare and Institutions Code.

Amend Section 44-111.3 to read:

44-111 PAYMENTS EXCLUDED OR EXEMPT FROM CONSIDERATION AS INCOME  
(Continued)

44-111

.3 Exemption of Payments from Public Sources (Continued)

- g. Reimbursements for child care costs made under the Supplemental Child Care (SCC) Program are exempt from consideration as income.  
(Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 11008.15, 11255, and 11451.7, Welfare and Institutions Code; 42 USC Section 602(g)(1)(E)(i); Section 202(a), Public Law 100-485; 45 CFR 244.0(c); 45 CFR 233.20(a)(4)(ii); 45 CFR 233.20(a)(11)(v)(C); 45 CFR 255.3(f)(1); and Federal Terms and Conditions for the California Assistance Payments Demonstration Project as approved by the United States Department of Health and Human Services on October 30, 1992.

Adopt Chapter 44-500 and Section 44-501 to read:

44-500 SUPPLEMENTAL CHILD CARE (SCC) PROGRAM

44-501 INTRODUCTION TO SUPPLEMENTAL CHILD CARE

44-501

HANDBOOK BEGINS HERE

The Supplemental Child Care (SCC) Program is mandated by Welfare and Institutions Code Section 11451.7 (Chapter 69, Statutes of 1993). It provides funding for child care to working AFDC recipients when certain eligibility criteria are met. The objective of SCC is to remove one of the most formidable barriers to employment for AFDC families with young children which is the high cost of child care. In assisting these families with their child care costs, it is hoped that they will obtain and maintain employment which will ultimately result in self-sufficiency from the welfare system.

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11451.7, Welfare and Institutions Code.

Amend Sections 44-502(e) (1), (r) (2), and (r) (3) to read:

44-502 DEFINITIONS

44-502

The following definitions pertain only to Chapter 44-500. The definitions shall be used in conjunction with the balance of the Supplemental Child Care Program regulations and do not stand alone.

- (a) (1) "AU" means the AFDC assistance unit.
- (b) (1) "Budget Month" means the month used to determine the amount of the SCC payment.
- (c) (1) "Child Care Disregard" means the limited dependent care earned income disregard amount used to reduce the net countable income in the AFDC grant computation as specified in Section 44-113.217.
- (d) (1) "Date of Receipt" means the date that a document is received by the county welfare department, either through the mail or delivered in person.
- (e) (1) "Exempt from Licensing" means a child care provider who is not required to obtain a day care license as defined by Title 22, Division 12, Section 101158.

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(A) Examples of when a day care license is not required.

- 1. The nonrelative child care provider cares for the children of only one family in addition to his/her own children, either in the home of the child or provider;
- 2. The child care provider cares only for children to whom the provider is related; or
- 3. The child care provider is a public or private school or a recreation program as defined in Health and Safety Code Section 1596.792.

HANDBOOK ENDS HERE

- (f) (1) "Full-time Care" means child care provided by a child care provider for more than 147 hours per calendar month.
- (g) through (o) Reserved
- (p) (1) "Payment Month" means the month following the report month and the month in which the recipient receives the SCC payment.
- (2) "Part-time Care" means child care provided by a child care provider for 147 hours or less per calendar month.

(q) Reserved

(r) (1) "Rate Ceiling" means the 75th percentile of the regional market rate or the 100th percentile of the regional market rate when the region has no more than two providers giving that age and category of care.

(2) "Regional Market Rate" means the costs of child care in each county differentiated by age of child, special needs of the child, type of care, and whether the care is provided full- or part-time as established in the Regional Market Rate Ceilings for California Child Care Providers.

(3) "Report Month" means the month in which a recipient is required to submit the monthly report (CA 7/SAWS 7, Rev. 1/93) and the Monthly Child Care Eligibility Report (SCC 6) which contain information from the previous month, also known as the budget month.

(s) (1) "SCC" means the Supplemental Child Care Program.

(t) through (z) Reserved

Authority Cited: Sections 10553/ and 10554, ~~and 11500~~, Welfare and Institutions Code ~~and 45 CFR 255.4~~.

Reference: Section 11451.7, Welfare and Institutions Code; 45 CFR 255.4; and Section 1596.792, Health and Safety Code.

Repeal Section 44-503.12; renumber Sections 44-503.13, .14 et seq., and .15 to Sections 44-503.12 et seq., .13 et seq., and .14, respectively; and amend Sections 44-503.11, .12, and .13 to read:

44-503 PROGRAM ELIGIBILITY

44-503

.1 An AU shall be eligible for SCC if all of the following conditions are met:

.11 A member of the AFDC AU is working and the county determines that adequate dependent care can not be provided during his/her working hours by a person parent or other person in the recipient's AU who is legally responsible for the child.

~~/11 The AU is eligible to receive the child care earned income disregard in their AFDC computation as specified in Section 44-113.117.~~

~~.112~~ The child care costs were paid for a child ~~in the AFDC AU~~ who meets ~~one~~ of the following conditions:

.121 The child:

(a) Is in the AU; or

(b) Would be AFDC-FG/U eligible but for the receipt of federal foster care or Supplemental Security Income/State Supplementary Payment (SSI/SSP).

.122 The child is:

~~/111~~ (a) Under the age of 13.

~~/112~~ (b) Physically or mentally incapable of caring for himself/herself based on a written statement of a physician or a licensed or certified psychologist and meets the age requirements under the AFDC program, as specified in Section 42-101.

~~/113~~ (c) Under court supervision as specified in Welfare and Institutions Code Sections 601 and 602 and meets the age requirements under the AFDC program, as specified in Section 42-101.

.143 The child care provider meets all of the following conditions:

.1431 Is 18 years old or older.

.1432 Is not a parent or legal guardian of the child.

.1433 Is not a member of the AU.

.1434 Has a day care license or is exempt from licensing.

.1435 Has ~~a valid social security number (SSN)~~ provided the necessary information as specified in Sections 44-506.12 through .15.

.154 The AU has provided the necessary information to determine SCC eligibility as specified in Section 44-506.1.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections ~~11503(a)~~ and 11451.7, Welfare and Institutions Code; 45 CFR 233.20; and 45 CFR 255.2, .3, .4, and .5.



Amend Sections 44-504.11 and .4 to read:

44-504 PAYMENT ELIGIBILITY

44-504

- .1 SCC payments shall reimburse child care costs which do not exceed the monthly rate ceiling less the amount allowed for a child care earned income disregard in the AFDC computation as specified in Section 44-113.217.

HANDBOOK BEGINS HERE

- .11 The Regional Market Rate ceilings are determined based on a statistically valid survey of the rates established by child care providers for private clients ~~in accordance with Welfare and Institutions Code Section 11308(b).~~

.111 The rate ceilings are determined based on:

- (a) The age of the child,
- (b) The special needs of the child,
- (c) The type of care provided,
- (d) The number of hours of care, either full-time or part-time care as defined in Sections 44-502(f)(1) and (p)(2), and
- (e) The care provider's geographic location in California.

HANDBOOK ENDS HERE

- .2 The county shall only issue a SCC payment when the child care hours claimed are for the following:

- .21 Work hours.
- .22 Transportation time between the worksite and the child care provider.
- .23 When necessary, hours based on the provider's standard billing practice.

HANDBOOK BEGINS HERE

- .24 Examples of eligible hours.

- .241 Example: A day care provider charges all families based on a weekly rate. The provider charges for any days the SCC child is absent, regardless of the reason (i.e., holidays, sick days and vacation). The provider also charges for days the parent is on holiday. Since this is the provider's billing practice for nonsubsidized families, a request for payment which includes these days would meet the payment eligibility requirements under this section.

.242 Example: A provider charges all families based on an hourly rate. The provider only charges for hours of care provided. The SCC child attends school and needs only after-school care. The county would compare the hours worked, including transportation time, to the hours of care, taking into consideration the time the child is in school.

.243 Example: A provider charges all families based on an hourly rate. The parent works from 4 p.m. to 12 a.m. The provider charges for nine hours of child care, because the parent leaves the child in care a half hour before starting work and a half hour after ending the work shift. The county would compare the hours worked including transportation time to the hours of care. A request for payment for nine hours of care would meet the payment eligibility requirements of this section.

HANDBOOK ENDS HERE

.3 The county shall not approve a SCC payment to a new child care provider if a payment was made for the same period of time to the prior-authorized provider unless the change was due to an emergency situation under Section 44-504.31.

.31 An emergency situation occurs when care cannot be provided or the provision of care places the child at risk of harm.

.4 ~~When the beginning date of SCC eligibility is after the first of the month/~~  
The SCC payment as defined in Section 44-505.1 shall be prorated from the beginning date of aid in accordance with the procedures in Section 44-315.7, when the beginning date of aid is after the first of the month.

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.41 Example: The total monthly SCC payment amount is \$150. However, aid began on March 17th and March has 31 days. The Reciprocal Table in Section 44-315.73 shows a figure of .4839 for the 17th day of a 31-day month. The total monthly SCC payment amount X the reciprocal = the prorated SCC amount ( $\$150 \times .4839 = \$72.585$ ). The \$72.585 is rounded down to \$72 which is the amount of the SCC payment.

HANDBOOK ENDS HERE

.5 The county shall not issue SCC payments pending a state hearing if SCC Program eligibility is denied. If a county reduction of the SCC payment is appealed, the recipient shall be entitled to the reduced amount of the SCC payment pending the state hearing.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11451.7, Welfare and Institutions Code; 45 CFR 255.1(c) and (e) (4); 45 CFR 255.2(a) (1); and 45 CFR 255.4(a) (2) and (3), (c) (2) and (i) (1).

Amend Section 44-505.12 and modify Handbook Examples 1, 2, and 3 to read:

44-505 PAYMENT COMPUTATION

44-505

- .1 When the AU is determined eligible for the SCC payment, the county shall pay the difference between:
- .11 The actual child care costs paid up to the applicable monthly rate ceiling, and
- .12 The allowable child care earned income disregard or the portion thereof, used in Section 44-113.217 to reduce the net countable income.
- .121 If no child care earned income disregard is allowed in the AFDC computations as specified in Section 44-113.217, reduce the amount determined in Section 44-505.11 by \$0.

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Example 1: When net countable income subtotal computed in Section 44-113.21 exceeds the total child care earned income disregard allowed.

AU of 3, (parent and 2 children, ages 5 and 1 years). Monthly child care costs are \$200 for the 5 year old and \$250 for the 1 year old. Gross income is \$750.

Computation from Section 44-113.21

Gross income	\$750
Standard work expense disregard	-90
	\$660
\$30 disregard	-30
	\$630
1/3 disregard	-210
Subtotal	\$420
Child care earned income disregard for the 5 year old (maximum allowed for a child over 2)	-175
	\$245
Child care earned income disregard for the 1 year old (maximum allowed for a child 2 years and under)	-200
Net Income to AU	\$ 45

SCC Computation

Actual child care paid for 5 year old	\$200
Monthly rate ceiling	330
Lesser of two above	200
Disregard allowed for 5 year old	-175
SCC payment for 5 year old	= \$ 25

Actual child care paid for 1 year old	\$250
Monthly rate ceiling	389
Lesser of two above	250
Disregard allowed for 1 year old	-200
SCC payment for 1 year old	= \$ 50
Total SCC Payment	= \$ 75

Example 2: When net countable income subtotal computed in Section 44-113.21 is less than the allowable child care earned income disregard.

AU of 3, (parent and 2 children, both over 6 years). Monthly child care costs are \$175 per child. Gross income is \$375.

Computation from Section 44-113.21

Gross income	\$375
Standard work expense disregard	-90
	\$285
\$30 disregard	-30
	\$255
1/3 disregard	- 85
Subtotal	\$170 <sup>1</sup>
Child care earned income disregard (maximum allowed for 2 children over 2 years)	-350
	- \$180
<u>Net Income to AU</u>	<u>\$-0-</u>

SCC Computation

Actual child care paid for first child	\$175
Monthly rate ceiling	240
Lesser of two above	175
Portion of disregard used for first child	-170 <sup>1</sup>
SCC payment for first child	= \$ 5
Actual child care paid for second child	\$175
Monthly rate ceiling	240
Lesser of two above	175
Portion of disregard used for second child	- 0 <sup>2</sup>
SCC payment for second child	= \$175
Total SCC Payment	= \$180

<sup>1</sup> Here, only \$170 of the allowable \$175 child care earned income disregard was used to reduce countable income, i.e., only \$170 was needed to reduce the income to -0-.

<sup>2</sup> Here, none of the allowable \$175 child care earned income disregard was used to reduce the net countable income, i.e., the net countable income was entirely offset in the computation for first child.

Example 3: When net countable income subtotal computed in Section 44-113.21 results in the recipient not receiving any amount of the allowable child care earned income disregard.

AU of 3, (parent and 2 children, ages 4 and 1 years). Monthly child care cost is \$45 for each child. Gross income is \$120.

Computation from Section 44-113.21

Gross income	\$120
Standard work expense disregard	<u>-90</u>
	\$ 30
\$30 disregard	<u>-30</u>
Subtotal	\$-0-
Child care earned income disregard (maximum allowed)	<u>- 90</u>
	- \$ 90
<u>Net Income to AU</u>	<u>\$-0-</u>

SCC Computation

Actual child care paid for 4 year old	\$ 45
Monthly rate ceiling	<u>160</u>
Lesser of two above	45
Portion of disregard used for 4 year old	<u>- 0<sup>1</sup></u>
SCC payment of 4 year old	= \$ 45
Actual child care paid for 1 year old	\$ 45
Monthly rate ceiling	<u>-180</u>
Lesser of two above	45
Portion of disregard used for 1 year old	<u>- 0<sup>1</sup></u>
SCC payment of 1 year old	= \$ 45
Total SCC Payment	= \$ 90

<sup>1</sup> Here, none of the allowable child care earned income disregards were needed to reduce the net countable income subtotal since it was already reduced to \$0 prior to deducting any child care earned income disregards.

HANDBOOK ENDS HERE

.2 Counties shall round payments to the nearest lower whole dollar.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11451.7, Welfare and Institutions Code; 45 CFR 233.20(a)(11)(i)(D); 45 CFR 255.3(h)(2); 45 CFR 255.4(a) and (a)(2)(iii); and the Preamble in Federal Register, Volume 54, Number 97, page 42233.

Amend Sections 44-506.1, .14, .15, .16, .17, .18, and .3 to read:

44-506 RECIPIENT RESPONSIBILITIES

44-506

- .1 The recipient shall provide the following information ~~to determine SCC payment eligibility~~ using the Monthly Child Care Eligibility Report (SCC 6) by the fifth calendar day of each report month along with the monthly report process under Section 40-181.22. ~~Information~~ An SCC 6 not received by the eleventh calendar day of the month shall be considered late.
- .11 Verification of employment and the number of hours of employment;
  - .111 Acceptable verification shall be pay stubs.
  - .112 Self-certification by the recipient of hours worked is acceptable only if pay stubs are not available or are incomplete.
- .12 Total child care hours provided during the month;
- .13 Total child care costs for the month;
- .14 The child care provider's name, and address/ ~~and social security number (SSN) or tax identification number;~~
- .15 Whether the provider is a licensed child day care center, licensed family day care home, or an exempt child day care provider;
- .16 A certification from the exempt child day care provider that he/she is at least 18 years of age and whether he/she is a relative of the SCC recipient/ ~~and when not related/ that he/she provided the SCC recipient the name/ address and telephone numbers of two character references/ and a statement as to his/her health/ education or experience/ criminal record/ and names and ages of other persons in the home providing care.~~
- .17 A declaration, signed under penalty of perjury, by the child care provider that the information submitted under Sections 44-506.12 through .16 is true and correct ~~to the best of his/her knowledge.~~
- .18 A declaration, signed under penalty of perjury, by the recipient that the information submitted under Section 44-506.1 is true and correct ~~to the best of his/her knowledge.~~
- .2 The failure to meet the requirements in Section 44-506.1 shall result in a denial of the SCC payment.
- .3 The failure to provide the ~~information~~ SCC 6 required in Section 44-506.1 by the eleventh calendar day of each month may result in a delay of the SCC payment.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code/ ~~and Social Security Act/ 42 U.S.C. Section 1320 (b-7).~~

Reference: Section 11451.7, Welfare and Institutions Code; 45 CFR 255.1(e); 45 CFR 255.2(a) and (g); ~~and~~ 45 CFR 255.4(h); and 42 U.S.C. Section 1320(b-7) (Section 402 of the Social Security Act).



Repeal Section 44-507.14 and renumber Sections 44-507.15 and .16 to Sections 44-507.14 and .15, respectively; repeal Sections 44-507.26, .261, and .273 and renumber Sections 44-507.27, .271, and .272 to Sections 44-507.26, .261, and .262, respectively; and amend Sections 44-507.11, .111, .112, .113, .12, .14, .21, .22, .23, .24, .25, .251, .261, .262, .31, .311, and .313 to read:

#### 44-507 COUNTY RESPONSIBILITIES

44-507

##### .1 General

- .11 The county shall inform applicants and recipients in writing about the availability of ~~and the information necessary to request~~ SCC payments and shall provide the Monthly Child Care Eligibility Report (SCC 6) necessary to request SCC payments at the following intervals:
- .111 At the time of application as specified in Section 40-131.3(u).
- .112 At the time of annual redetermination ~~as specified in Section 40-181.2~~.
- .113 When earned income is first reported as specified in Section 40-181.11.
- .12 At the intervals specified in Section 44-507.11, the county shall inform current SCC recipients in writing that a failure to provide ~~information~~ the SCC 6 in a timely manner could result in delay of issuance or denial of SCC payments.
- .13 At the intervals specified in Section 44-507.11, the county shall inform the SCC recipient in writing of his/her right to request a state hearing regarding SCC benefits and that aid paid pending the state hearing decision is not available as specified in Section 44-504.5.
- ~~114~~ ~~Counties shall verify the child care provider's SSN with the Social Security Administration according to provisions in Division 20.~~
- .134 When provided, ~~C~~counties shall compare the child care provider's SSN with the Medi-Cal Eligibility Data System (MEDS) to determine whether the provider is receiving AFDC, Food Stamps, or Medi-Cal benefits.
- .135 Counties shall inform SCC recipients of the availability of the Transitional Child Care Program according to Section 40-173.8.

##### .2 Action on SCC Payment Requests

- .21 The county shall issue the SCC payment to eligible recipients by the first of the month following the report month unless the ~~verification of child care costs~~ SCC 6 is received after the eleventh day of the report month.

HANDBOOK BEGINS HERE

- .211 Example: If child care costs were paid in November and reported by December 5th, the county shall issue the SCC payment by January 1.

HANDBOOK ENDS HERE

- .22 When the ~~verification of child care costs~~ SCC 6 is received after the eleventh day of the report month, the county shall issue the SCC payment within 30 calendar days from the receipt of verification of child care costs.
- .23 The county shall deny an SCC payment by the first day of the payment month when the ~~verification of child care costs~~ SCC 6 was submitted timely but the recipient did not meet the eligibility criteria specified in Sections 44-503 and 44-504.
- .24 The county shall deny an SCC payment when the ~~verification of child care costs~~ SCC 6 was submitted after the first day of the payment month unless the recipient had good cause under Section 40-181.233.
- .25 The county shall deny an SCC payment when an incomplete ~~child care information~~ SCC 6 is submitted.
- .251 The county shall inform the recipient within ten calendar days after the date of receipt of the ~~child care information~~ SCC 6 that the denial shall be rescinded if complete child care information is received by the first day of the payment month.
- 126 The county shall deny an SCC payment when the child care provider's SSN is determined not to be valid as specified in section 44-503/143 and section 44-507/141*
- 1261 The county shall inform the recipient that the denial will be rescinded if additional information regarding the validity of the provider's SSN is received within ten calendar days after the date of the notice and the county determines that the child care provider's SSN is valid.*
- .276 The county shall rescind the denial of the SCC payment and grant SCC in the following situations:
- .2761 When the recipient provides the completed ~~child care information~~ SCC 6 by the first day of the payment month; or
- .2762 When the recipient provides the completed ~~child care information~~ SCC 6 after the first day of the payment month but meets the good cause criteria specified under Section 40-181.233.
- 1273 When the recipient provides additional information which results in the county's determination that the child care provider's SSN is valid.*

.3 SCC Notice Requirements

.31 The county shall issue an appropriate Notice of Action (NOA) to SCC recipients, pursuant to procedures specified in MPP ~~Policy 22/~~ Sections 22-021 and 22-022 for the following types of SCC actions and changes:

- .311 Approval of an SCC payment ~~and~~ that shall include an explanation of the SCC payment amount and ~~an explanation of~~ the rate ceiling.
- .312 Denial of an SCC payment.
- .313 Change in the rate ceiling described in Section 44-504/12(r)(1).
- .314 Collection of overpayment from SCC recipients under Section 44-508.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11451.7, Welfare and Institutions Code; 45 CFR 233.28(e); 45 CFR 235.110; 45 CFR 255.1(e); 45 CFR 255.2(a), (g), (g)(2), and (h); 45 CFR 255.4(c)(2), (f)(2), and (h); and 45 CFR 256.4(c).

Amend Sections 44-508.41, .432, and .433 to read:

44-508 UNDERPAYMENTS AND OVERPAYMENTS

44-508

.1 General Criteria

.11 Underpayments occur when an SCC payment made to the recipient is less than what he/she is entitled to receive.

.111 Action to correct underpayments shall be taken within 30 calendar days from the date the county determines that an underpayment exists.

.12 Overpayments occur when an SCC payment to the recipient exceeds what he/she is entitled to receive.

HANDBOOK BEGINS HERE

.121 An overpayment may be all or a portion of an SCC payment.

HANDBOOK ENDS HERE

.13 The county shall take all reasonable steps necessary to promptly correct any underpayment and collect any overpayment that is known to the county.

.131 The county shall refer cases of suspected fraud to the county Special Investigative Unit (SIU) under MPP Section 20-005.

.132 The county shall attempt recovery efforts in all cases of current and former AFDC recipients.

.14 The county shall recover SCC overpayments from any person who was a member of the AU at the time the AU was overpaid.

.2 Initiating Recovery

.21 When the county has determined that an overpayment exists, the county shall calculate the amount of the overpayment and determine the appropriate method of recovery under Sections 44-508.3 and .4.

.211 Recovery methods may be used concurrently.

.22 The county shall take steps to initiate recovery within 30 calendar days from the date the overpayment is discovered by notifying the individual in writing that he/she has an overpayment and how recovery will occur under Sections 44-508.3 and .4.

.3 Overpayment Recovery from Current SCC Recipients

.31 Balancing

.311 When an individual has both an overpayment and an underpayment, the county may offset one against the other.

.32 SCC Payment Adjustment

.321 The overpayment is to be adjusted from the current SCC payment subject to Section 44-508.322.

(a) When the current SCC payment amount is not enough to recover the entire overpayment, the remaining amount of the overpayment shall be applied to succeeding month(s) and the adjustment process shall be repeated.

.322 Recovery from the current SCC payment(s) shall be ten percent of the total payment or \$21 dollars, whichever is greater, but the recovery shall not exceed the current SCC payment.

.33 Voluntary Cash Recovery

.331 The county shall accept any voluntary cash payment from an individual to pay any portion of an existing overpayment.

.4 Overpayment Recovery from Former SCC Recipients

.41 The county shall demand in writing, the repayment of any outstanding overpayment amount from any individual who is no longer eligible to receive SCC payments ~~of AFDC~~.

.42 SCC overpayments shall be adjusted from the recipient's AFDC grant when:

.421 The recipient and the county voluntarily agree with the amount of the AFDC grant adjustment.

.422 The individual signs a written agreement with the county.

.43 Once the demand letter for repayment has been sent, the county shall continue recovery efforts of SCC overpayments in:

.431 All cases of fraud;

.432 All cases of current AFDC recipients;

.433 All cases of former AFDC recipients when the overpayment amount would equal or exceed the cost of recovery.

.44 The county shall recoup SCC overpayments from families receiving Transitional Child Care (TCC) payments by following TCC overpayment collection procedures under Section 47-190.

.5 Overpayment Record Maintenance

- .51 The county shall maintain a record of the overpayment including all notices and agreements, the repayment dates and amounts recovered.
- .52 Once collection of the overpayment is completed, the overpayment records shall be retained in accordance with requirements for records retention of public assistance cases, as specified in Section 23-350.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11451.7, Welfare and Institutions Code; 45 CFR 205.10; 45 CFR 255.2(h); 45 CFR 255.4(j)(1), (4), (5), (6), (7), and (8); and the Preamble in Federal Register, Volume 54, Number 197, page 42234.

Amend Section 44-509.11 to read:

44-509 DATA COLLECTION

44-509

.1 The county shall collect and report data as required by CDSS.

.11 Information shall include/ ~~but not be limited to~~ the following:

- .111 Total number of AFDC families receiving SCC payments each month, including the
  - (a) Number of AFDC-FG families receiving SCC payments each month, and
  - (b) Number of AFDC-U families receiving SCC payments each month.
- .112 Total number of children receiving SCC payments each month by the type of child care (i.e., licensed or exempt, relative or non-relative, inside or outside child's home, family day care, or center care);
  - (a) Number of AFDC-FG children receiving SCC payments each month by the type of care, and
  - (b) Number of AFDC-U children receiving SCC payments each month by the type of care.
- .113 Expenditures for children receiving SCC payments each month by the type of child care (i.e., licensed or exempt, relative or non-relative, inside or outside child's home, family day care, or center care);
  - (a) Amount of expenditures for AFDC-FG children each month by type of care, and
  - (b) Amount of expenditures for AFDC-U children each month by type of care.
- .114 Number of months that each family has received child care services.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11451.7, Welfare and Institutions Code and Federal Action Transmittal JOBS-ACF-AT-92-1.

*original*

To: Secretary of State  
Cc: Roy Howard,DSS;Patricia Taylor,Barclays Law Publishers  
Bcc:  
From: Barbara Eckard@LEGAL@OAL  
Subject: Text error  
Date: Wednesday, February 8, 1995 7:46:34 PST  
Attach:  
Certify: N  
Forwarded by:

-----

OAL File 94-1114-01S  
Department of Social Services  
Date Filed With Secretary of State:December 29,1994

The attached memorandum from the Department of Social Services requests the renumbering of specified Articles and also of the subsections in section 35001 in order to keep them in numericval sequence. Attached is a memorandum from DSS with the renumbering illustrated. I have also attached a copy of the endorsed STD 400 for this filing. Please retain this communication with your copy of the above-entitled regulations. Thank you.

**FILED**  
In the office of the Secretary of State  
of the State of California

**FEB 8 1994**

At 4:40 O'clock P. M.  
BIL JONES, Secretary of State  
By Calvin A. Cornejo  
Deputy Secretary of State



STATE OF CALIFORNIA OFFICE OF ADMINISTRATIVE LAW  
**NOTICE OF REGULATION SUBMISSION**

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 2-)

AGENCY

California Department of Social Services

AGENCY FILE NUMBER (if any)

0694-19

ENDORSED FILED  
 IN THE OFFICE OF

94 DEC 29 PM 4:35

SECRETARY OF STATE  
 OF CALIFORNIA

OAL FILE NUMBER	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER	PREVIOUS REGULATORY ACTION NUMBER
	294-0726-13	94-1114-015		

For use by Office of Administrative Law (OAL) only

APPROVED

DISAPPROVED

1994 APPROVED FOR FILING AND PUBLICATION

OFFICE OF ADMINISTRATIVE LAW

DEC 29 1994

**A. PUBLICATION OF NOTICE** (Complete for publication in Notice Register)

1. TOPIC OF NOTICE Independent Adoption Reform Regs.		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 94-1312	PUBLICATION DATE 8-5-94

**B. SUBMISSION OF REGULATIONS** (Complete when submitting regulations)

**1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S)** (Including title 26, if toxics-related)

TITLE(S)  Title 22 AND mpp SECTIONS AFFECTED	ADOPT Sections 35094.1, 35094.2, 35094.3 and 35122
	AMEND See attachment 1
	REPEAL Sections 35127.1, 35127.2 and 35400

**2. TYPE OF FILING**

☒ Regular Rulemaking (Gov. Code, § 11346)  
☐ Resubmittal  
☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)  
☐ Emergency (Gov. Code, § 11346.1(b))  
☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.  
☐ Print Only  
☐ Other (specify)

**3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE** (Cal. Code Regs. title 1, §§ 44 and 45)

October 13, 1994 through October 28, 1994

**4. EFFECTIVE DATE OF REGULATORY CHANGES** (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State  
☐ Effective on filing with Secretary of State  
☒ Effective other (Specify) January 1, 1995

**5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY**

☒ Department of Finance (Form STD. 399)  
☐ Fair Political Practices Commission  
☐ State Fire Marshal  
☐ Other (Specify)

**6. CONTACT PERSON**

Frank R. Vitulli

TELEPHONE NUMBER

657-2586

**7.**

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

*Eloise Anderson*

TYPED NAME AND TITLE OF SIGNATORY

ELOISE ANDERSON, Director

DATE NOV 10 1994

Attachment # 1

Manual of Policies and Procedures (MPP) Sections Amended:

35000	35097
35001	35099
35029	35101
35049	35103
35053	35105
35079	35107
35081	35109
35083	35111 <del>7</del>
35085	35113
35087	35115
35089	35117
35091	35119
35093	35121
35094	35123
35095	35125
35095.1	35126
35095.2	

# Memorandum

To : Office of Administrative Law (OAL)  
555 Capitol Mall, Suite 1290  
Sacramento, CA 95814

Attn: Barbara Eckert

Date : February 7, 1995

Subject: Independent Adoption  
Reform Regulations,  
(OAL File No.  
94-1114-01S)

From : Department of Social Services

The California Department of Social Services (CDSS) requests the office of Administrative Law (OAL) to make the following technical changes to the Independent Adoption Reform Regulations (OAL File No. 94-1114-01S):

1. Renumber existing Article 3 - Accepting Consent- to Article 4; existing Article 4 - Finalization of Adoption -to Article 5; existing Article 5 - Procedures in Denials and Commitments - to article 6; and existing Article 6 - Independent Adoption Preplacement Program Act- to Article 7.
2. Correct the numbering format of Section 35001 - Forms - so that the numbers are sequential as indicated on the pages faxed to CDSS from your office on January 20, 1995. Copies of the pages with the requested changes are attached.

I appreciate your help and cooperation in this matter. If you need additional information, please call me at 657-3264.



ROY HOWARD  
Lead Regulations Analyst  
Office of Regulations Development

Attachments

1995 FEB -7 PM 4:11  
OFFICE OF  
ADMINISTRATIVE LAW

Renumber existing Article 3 to Article 4:

SUBCHAPTER 4 PROCEDURES FOR INDEPENDENT ADOPTIONS

Article 3 4 Accepting Consent

35109 PROCEDURES FOR ACCEPTING CONSENTS SIGNED IN CALIFORNIA

Renumber existing Article 2 to be Article 3:

SUBCHAPTER 4 PROCEDURES FOR INDEPENDENT ADOPTIONS

Article 3 Prerequisites To Consent

35095 GENERAL PREREQUISITES TO CONSENT

35095

Renumber existing Article 4 to Article 5:

SUBCHAPTER 4 PROCEDURES FOR INDEPENDENT ADOPTIONS

Article 4 5 Finalization of Adoption

35123 CONSENT OF COURT REPORT AND REQUIREMENT FOR FILING 35123

Renumber existing Article 5 to Article 6:

SUBCHAPTER 4 PROCEDURES FOR INDEPENDENT ADOPTIONS

Article § 6 Procedures in Denials and Commitments

35125 PLANNING FOR THE CHILD WHEN CONSENT IS WITHDRAWN, 35125  
THE PETITION IS WITHDRAWN OR DISMISSED, OR THE  
AGENCY RECOMMENDS REMOVAL OF THE CHILD

Renumber existing Article 6 to Article 7:

SUBCHAPTER 4 PROCEDURES FOR INDEPENDENT ADOPTIONS

Article § 7 Independent Adoption Preplacement Program Act

35127.1	ADVICE TO BIRTH PARENTS - INDEPENDENT	35127.1
	ADOPTION PREPLACEMENT PROGRAM	



Amend Section 35001 to read:

35001 FORMS

35001

(a) (1) through (4) (Continued)

(5) "AD 1A" (1-95) means the form entitled, "Consent to Adoption by Parent(s) in California."

(6) "AD 1C" (1-95) means the form entitled, "Consent to Adoption by Parent(s) Outside California."

(7) "AD 1F" (1-95) means the form entitled, "Consent to Adoption by Parent(s) Outside California in Armed Forces."

(8) "AD 20" (7-84) means the form entitled, "Refusal to Give Consent to Adoption."

(9) "AD 42R" (7-93) means the form entitled, "Individual Record-Relinquishment Adoptions."

~~(§10) (Continued)~~

~~(§11) (Continued)~~

(12) "AD 90" (6-91) means the form entitled, "Supporting Information for Issuance of Department of Social Services Waiver and Acknowledgment."

(713) "AD 100" (12-93) (Continued)

(14) "AD 155" (1-95) means the form entitled, "Consent to Adoption by Parent in California When Legal Father Denies He is the Natural Father."

(15) "AD 166" (1-95) means the form entitled, "Consent to Adoption by Father Outside California."

~~(§16) (Continued)~~

~~(§17) (Continued)~~

~~(108) (Continued)~~

~~(719) (Continued)~~

(20) "AD 508 (3-82) means the form entitled, Rescission Request/Rescission of Relinquishment."

~~(721) (Continued)~~

~~(722) (Continued)~~

(23) "AD 551A" (5-91) means the form entitled, "Notification of Procedure in Lieu of Signing Relinquishment Waiver or Denial."

(24) "AD 558" (3-92) means the form entitled, "Notice of Placement."

(25) "AD 530" (5-81) means the form entitled, "Notice of Removal of Child from Adoptive Home."

~~(1426) (Continued)~~

~~(1527) (Continued)~~

~~(1628) (Continued)~~

~~(1729) (Continued)~~

~~(1830) (Continued)~~

~~(1931) (Continued)~~

~~(2032) (Continued)~~

~~(2133) (Continued)~~

(34) "AD 594" (1-95) means the form entitled, "Consent to Adoption by Alleged Natural Father."

(35) "AD 830" (7-87) means the form entitled, "Summary Claim for Reimbursement Private Adoption Agency Reimbursement Program."

(36) "AD 831" (7-87) means the form entitled, "Private Adoption Agency Cost Justification for Adoptive Placement."

(37) "AD 842" (1-95) means the form entitled, "Consent to Adoptive Placement by Alleged Natural Father (Outside California in Armed Forces)."

~~(38) (Reserved)~~

~~(39) (Reserved)~~

38 ~~(40)~~ "AD 859" (1-95) means the form entitled, "Consent to Adoption of Indian Child by Parent(s) in or out of California."

39 ~~(41)~~ "AD 860" (1-95) means the form entitled, "Consent to Adoption of Indian Child by Presumed Father in or out of California."

40 ~~(42)~~ "AD 861" (1-95) means the form entitled, "Consent to Adoption of Indian Child by Alleged Natural Father (In or Outside of California)."

~~(2243) (Continued)~~

~~(2244) (Continued)~~

~~(245) (Continued)~~~~(246) (Continued)~~~~(247) (Continued)~~~~(2748) (Continued)~~~~(2849) (Continued)~~~~(2950) (Continued)~~49 ~~51~~ "AD 880" (7-86) means the form entitled, "Declaration of Mother."54 ~~452~~ "AD 887" (1991-95) (Continued)55 ~~453~~ "AD 887A" (1991-95) (Continued)56 ~~454~~ "AD 887B" (1991-95) (Continued)~~(3355) (Continued)~~~~(3456) (Continued)~~~~(357) (Continued)~~~~(358) (Continued)~~61 ~~359~~ "AD 900" (1991-95) (Continued)62 ~~360~~ "AD 900A" (1991-95) (Continued)63 ~~361~~ "AD 900B" (1991-95) (Continued)~~(4062) (Continued)~~~~(4163) (Continued)~~~~(4264) (Continued)~~~~(4365) (Continued)~~64 ~~466~~ "AD 908" (1-94) means the form entitled, "Adoptions Information Act Statement."65 ~~467~~ "AD 909" (8-83) means the form entitled, "Photolisting Data Sheet."

delete

~~(441) "AD 911" (3-91) means the form entitled, "Confirmation of Advice"~~~~(4368) (Continued)~~~~(469) (Continued)~~~~(470) (Continued)~~

- 69 ~~(21)~~ "AD 924" (1-95) means the form entitled, "Independent Adoption Placement Agreement."
- 70 ~~(22)~~ "AD 925" (1-95) means the form entitled, "Independent Adoption Placement Agreement - Indian Child."
- 71 ~~(23)~~ "AD 926" (1-95) means the form entitled, "Statement of Understanding - Independent Adoption Program (Parent Who Signs Independent Adoption Placement Agreement)."
- 72 ~~(24)~~ "AD 927" (1-95) means the form entitled, "Statement of Understanding - Independent Adoption Program (Parent of Indian Child Who Signs Independent Adoption Placement Agreement)."
- 73 ~~(25)~~ "AD 928" (1-95) means the form entitled, "Revocation of Consent - Independent Adoption Program."
- 74 ~~(26)~~ "AD 929" (1-95) means the form entitled, "Waiver of Right to Revoke Consent - Independent Adoption Program."
- 75 ~~(27)~~ "AD 930" (1-95) means the form entitled, "Independent Adoption Placement Agreement Transmittal."
- 76 ~~(28)~~ "AD 4310" (1-93) means the form entitled, "Adoption Programs Notice Required by Information Practices Act."
- 77 ~~(29)~~ "AD 4311" (1-87) means the form entitled, "Information on American Indian Child (Adoption Program)."
- 78 ~~(30)~~ "AD 4317" (3-82) means the form entitled, "Revocation of Relinquishment."

~~(481)~~ (Continued)

(b) (1) "BID 7" (5-90) means the fingerprint card.

(c) Reserved

(d) Reserved

(e) Reserved

(f) (Continued)

(g) Reserved

(h) Reserved

(i) (1) "ICPC 100A" (10-91) means the form entitled, "Interstate Compact Application Request to Place Child."

(2) "ICPC 100B" (7-92) means the form entitled, "Interstate Compact Report on Child's Placement Status."

(j) - (z) Reserved.

(Reserved)

Authority Cited: Sections 10553 ~~and~~, 10554, 16118, and 16120 Welfare and Institutions Code; and Section 8621, Family Code.

Reference: Sections ~~222/10/ 222/20/ 224/62 and 224/70/ Civil Code/ Section~~ 16105, 16118, and 16120.05, Welfare and Institutions Code; Sections 8500 et seq., 8600 et seq., 8700 et seq., 8800 et seq., 8900 et seq., 9100 et seq., and 9200 et seq., Family Code.



## § 35001

## BARCLAYS CALIFORNIA CODE OF REGULATIONS

## Title 22

bility for and/ or duration of and/or amount of adoption assistance payments.

(2) "Relinquishment Form" means a relinquishment document as described in section 35147 or 35148.

(3) "Rescission" means an action taken by mutual agreement between the relinquishing parent and the agency which accepted the relinquishment, to nullify the relinquishment after it has been filed.

(4) "Responsible Public Agency" means the department or licensed public adoption agency responsible for determining Adoption Assistance Program eligibility and initial and subsequent payment amounts as specified in Section 35325(c).

(5) "Revocation" means an action taken by the parent who has signed a relinquishment, to nullify the relinquishment before it has been filed.

(s)(1) "Secretary" means Secretary of the Interior as defined at title 25 United States Code, section 1903(11).

(2) "Set Aside" means the legal process by which adoptive parents can secure the dismissal of the decree of adoption.

(3) "Sibling" means a brother or sister of an adoptee who was born to the same birth parent or parents of the adoptee.

(4) "Special Needs Child" means special needs child as defined at Civil Code Section 220.20(g).

(5) "Statewide Median Income" means the California median income as projected and adjusted for family size by the United States Department of Housing and Urban Development (HUD).

(t) (Reserved)

(u) (Reserved)

(v) (Reserved)

(w) "Waiver" means the action taken by the department eliminating the need for the report required of the department when the agency is a party to or has joined in the petition for adoption.

(x) (Reserved)

(y) (Reserved)

(z) (Reserved)

NOTE: Authority cited: Sections 10553, 10554 and 16118, Welfare and Institutions Code; Section 1530, Health and Safety Code; and Sections 222.26(b), 224.50(b), 224.70(b), 226.11 and 226.35(b), Civil Code. Reference: Sections 10800, 16000, 16115, 16118, 16119, 16120, 16120.1 and 16121, Welfare and Institutions Code; Sections 25, 62, 211, 220.20(a), 220.20(b), 220.20(c), 220.20(d), 220.20(e), 220.20(f), 220.20(g), 220.20(h), 220.20(i), 220.20(j), 220.20(k), 220.20(l), 220.20(m), 220.20(n), 220.20(o), 220.20(p), 220.20(q), 222.26(a), 224.70(a), 226.35(a), 229.30, 232, 239, 7001, 7002, 7003, 7004 and 7017, Civil Code; Section 1502, Health and Safety Code; Section 13290, Government Code; 8 USC 1101(b)(1)(F); 25 USC 1901, 1903(2), (3), (4), (5), (6), (8), (9), (11), and (12); 42 USC 673 and 675; Section 11105(a)(2), Penal Code; 28 CFR Section 16.31; and 45 CFR 1356.41(j).

#### HISTORY

1. New section filed 9-1-87; operative 10-1-87. Ed. Note: The printing of this regulation was delayed due to necessary reformatting (Register 88, No. 50). For history of former chapter 3, see Register 88, No. 1.
2. Repealer of subsection (mm) filed 12-1-88; operative 12-31-88 (Register 89, No. 1).
3. Amendment of subsection (bb) filed 3-7-89; operative 4-6-89 (Register 89, No. 11).
4. Amendment filed 7-28-89; operative 8-27-89 (Register 89, No. 31).
5. Editorial correction of subsection (s)(3) originally filed 8-8-86; operative 9-7-86 as section 70-100(yy) of the Manual of Policies and Procedures. Definition inadvertently omitted during reformatting (Register 89, No. 38).
6. Amendment of subsection (f) filed 12-15-89; operative 1-14-90 (Register 89, No. 51).
7. Amendment of subsection (i) filed 12-28-89 as an emergency; operative 1-1-90 (Register 90, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5-1-90.
8. New subsection (n)(1) filed 1-8-90 as an emergency; operative 1-8-90 (Register 90, No. 9). A Certificate of Compliance must be transmitted to OAL within 120 days by 5-8-90 or emergency language will be repealed on 5-9-90.
9. Amendment of subsections (b) and (r) filed 3-9-90; operative 4-8-90 (Register 90, No. 13).
10. Certificate of Compliance as to 12-28-89 order transmitted to OAL 4-27-90 and filed 5-25-90 (Register 90, No. 28).
11. Certificate of Compliance as to 1-8-90 order transmitted to OAL on 5-4-90 and filed 6-4-90 (Register 90, No. 30).

12. Editorial correction of printing error reinstating subsections (t), (u) and (v) (Register 91, No. 32).

13. Change without regulatory effect amending section filed 8-2-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 52).

14. New subsections (s)(2)-(s)(6) and subsection renumbering, new subsection (m)(2), and amendment of NOTE filed 3-10-93; operative 4-9-93 (Register 93, No. 11).

15. Repealer of subsections (s)(2)-(6) and subsection renumbering filed 9-8-93; operative 10-7-93 (Register 93, No. 37).

16. New subsection (s)(1) and subsection renumbering, repealer of subsection (s)(2), amendment of subsection (A)(4), correction of subsections (r)(2)-(3) numbering, new subsection (r)(4) and subsection renumbering and new subsection (s)(5) filed 10-31-94 as an emergency; operative 11-1-94 (Register 94, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-1-95 or emergency language will be repealed by operation of law on the following day.

## Subchapter 2. General Requirements

### Article 1. Correction, Alteration, Translation and Reading of Forms

#### § 35001. Definitions—Forms.

- (a)(1) "AAP 1 (Bi)" (7/94) means the form entitled, "Request for Adoption Assistance."
- (2) "AAP 2" (9/94) means the form entitled, "Payment Instructions - Adoption Assistance Program."
- (3) "AAP 3" (7/94) means the form entitled "Recertification Information - Adoption Assistance Program."
- (4) "AAP 4" (9/94) means the form entitled "Eligibility Certification - Adoption Assistance Program."
- (5) "AD 67" (9/90) means the form entitled, "Information About the Birth Mother." 10
- (6) "AD 67A" (6/91) means the form entitled, "Information About the Birth Father." 11
- (7) "AD 100" (2/93) means the form entitled, "Authorization for Release of Information." 13
- (8) "AD 501 ENG/SP" (12/91) means the form entitled, "Relinquishment (Birth Mother and/or Presumed Father)." 16
- (9) "AD 501A ENG/SP" (12/91) means the form entitled, "Relinquishment (Out of State)." 17
- (10) "AD 503 ENG/SP" (12/91) means the form entitled, "Relinquishment - Out of County (Birth Mother and/or Presumed Father)." 18
- (11) "AD 504" (12/91) means the form entitled, "Relinquishment - Out of State - in Armed Forces." 19
- (12) "AD 512" (10/91) means the form entitled, "Psychological and Medical History of Child." 21
- (13) "AD 512A" (2/93) means the form entitled, "Transmittal of Adoptee's Medical and Psychosocial Background and Family History." 22
- (14) "AD 583 ENG/SP" (12/91) means the form entitled, "Relinquishment - Out of County (Presumed Father Denies He is the Birth Father)." 26
- (15) "AD 584 ENG/SP" (12/91) means the form entitled, "Relinquishment - Out of State (Presumed Father Denies He is the Birth Father)." 27
- (16) "AD 585 ENG/SP" (12/91) means the form entitled, "Relinquishment (Presumed Father Denies He is the Birth Father)." 28
- (17) "AD 586 ENG/SP" (4/92) means the form entitled, "Relinquishment - In or Out of County (Alleged Natural Father in California)." 29
- (18) "AD 588 ENG/SP" (1/92) means the form entitled, "Denial of Paternity by Alleged Natural Father - In or Out of California." 30
- (19) "AD 590 ENG/SP" (4/90) means the form entitled, "Waiver of Right to Further Notice of Adoption Planning (Alleged Natural Father In or Out of California)." 31
- (20) "AD 591 ENG/SP" (12/91) means the form entitled, "Relinquishment (Alleged Natural Father) Out of State or County." 32
- (21) "AD 593" (12/91) means the form entitled, "Relinquishment (Alleged Natural Father) Outside of California in Armed Forces." 33

## Title 22

## Department of Social Services—Department of Health Services

§ 35002

- 41 (22) "AD 862" (12/91) means the form entitled, "Relinquishment of Indian Child by Alleged Natural Father - Out of State or County."
- 42 (23) "AD 863" (12/91) means the form entitled, "Relinquishment of Indian Child - Out of State."
- 43 (24) "AD 864" (1/92) means the form entitled, "Relinquishment of Indian Child (Birth Mother and/or Presumed Father)."
- 44 (25) "AD 865" (1/92) means the form entitled, "Relinquishment of Indian Child (Birth Mother and/or Presumed Father) Out of County."
- 45 (26) "AD 866" (1/92) means the form entitled, "Relinquishment of Indian Child (Presumed Father Denies He is the Birth Father)."
- 46 (27) "AD 867" (1/92) means the form entitled, "Relinquishment of Indian Child (Presumed Father Denies He is the Birth Father) Out of State."
- 47 (28) "AD 868" (1/92) means the form entitled, "Relinquishment of Indian Child (Alleged Natural Father in California) In/Out of County."
- 48 (29) "AD 873" (1/92) means the form entitled, "Relinquishment of Indian Child (Presumed Father Denies He is Birth Father) Out of County."
- 50 (30) "AD 885" (1/93) means the form entitled, "Statement of Understanding - Agency Adoptions Program (Mother or a Presumed Father Who Has Legal Right to Physical Custody of the Child)."
- 51 (31) "AD 885A" (5/93) means the form entitled, "Statement of Understanding - Agency Adoptions Program (Mother or a Presumed Father Who Has Been Deprived of Physical Custody of the Child by Juvenile Court Order and Has Not Received Family Maintenance or Family Reunification Services)."
- 52 (32) "AD 885B" (1/93) means the form entitled, "Statement of Understanding - Agency Adoptions Program (Mother or a Presumed Father Who Has Been Deprived of Physical Custody of the Child and has Received Family Maintenance and/or Family Reunification Services and Whose Child Has Been Referred by the Juvenile Court to the Permanent Placement Program with a Plan of Adoption)."
- 53 (33) "AD 885C" (1/93) means the form entitled, "Statement of Understanding - Agency Adoptions Program (Alleged Natural Father Who Relinquishes His Child)."
- 54 (34) "AD 887" (1/93) means the form entitled, "Statement of Understanding - Independent Adoptions Program (Parent Who Gave Physical Custody of the Child to the Adoptive Parents)."
- 55 (35) "AD 887A" (1/93) means the form entitled, "Statement of Understanding - Independent Adoptions Program (Parent Who Did Not Give Physical Custody of the Child to the Adoptive Parents)."
- 56 (36) "AD 887B" (1/93) means the form entitled, "Statement of Understanding - Independent Adoptions Program (Alleged Natural Father)."
- 57 (37) "AD 899" (1/93) means the form entitled, "Statement of Understanding - Agency Adoptions Program (Mother or a Presumed Father Who Has Legal Right to Physical Custody of the Indian Child)."
- 58 (38) "AD 899A" (1/93) means the form entitled, "Statement of Understanding - Agency Adoptions Program (Mother or a Presumed Father Who Has Been Deprived of Physical Custody of the Child and Has Received Family Maintenance and/or Family Reunification Services and Whose Indian Child Has Been Referred by the Juvenile Court to the Permanent Placement Program with a Plan of Adoption)."
- 59 (39) "AD 899B" (2/93) means the form entitled, "Statement of Understanding - Agency Adoptions Program (Mother or a Presumed Father Who Has Been Deprived of Physical Custody of the Indian Child by Juvenile Court Order and Has Not Received Family Maintenance or Family Reunification Services)."
- 60 (40) "AD 899C" (1/93) means the form entitled, "Statement of Understanding - Agency Adoptions Program (Alleged Natural Father Who Relinquishes His Child and Whose Child is Subject to the Indian Child Welfare Act Through the Mother's Tribe)."
- 61 (41) "AD 900" (1/93) means the form entitled, "Statement of Understanding - Independent Adoptions Program (Parent Who Gave Physical Custody of the Indian Child to the Adoptive Parents)."
- 62 (42) "AD 900A" (1/93) means the form entitled, "Statement of Understanding - Independent Adoptions Program (Parent Who Did Not Give Physical Custody of the Indian Child to the Adoptive Parents)."
- (43) "AD 900B" (1/93) means the form entitled, "Statement of Understanding - Independent Adoptions Program (Alleged Natural Father of Indian Child)."
- (44) "AD 913" (3/93) means the form entitled, "Confirmation of Adverse."
- (45) "AD 920 ENG/SP" (2/93) means the form entitled, "Relinquishment - In or Out of County (Alleged Natural Father In California) - Parent Identifying Adopting Parent(s)."
- (46) "AD 921 ENG/SP" (1/93) means the form entitled, "Relinquishment (Birth Mother and/or Presumed Father) - Parent Identifying Adopting Parent(s)."
- (47) "AD 922 ENG/SP" (1/93) means the form entitled, "Relinquishment Addendum for Parent Identifying Adopting Parent(s)."
- (48) "AD 4320 Bi" (7/94) means the form entitled, "Adoption Assistance Agreement."
- (b) (Reserved)
- (c) (Reserved)
- (d) (Reserved)
- (e) (Reserved)
- (f)(1) (Reserved)
- (f)(2) (Reserved)
- (3) "FC 3" (2/92) means the form entitled, "Determination of Federal AFDC-FC Eligibility."
- (4) (Reserved)
- (5) (Reserved)
- (6) (Reserved)
- (7) (Reserved)
- (8) "FC 8" (6/94) means the form entitled, "Federal Eligibility Certification for Adoption Assistance Program."
- (9) "FC 9" (6/94) means the form entitled, "Federal Eligibility Information for Adoption Assistance Program."
- (10) "FC 10" (12/88) means the form entitled, "Income and Property Checklist for Federal Eligibility Determination - Adoption Assistance Program."
- NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 222.10, 222.26, 224.62 and 224.70, Civil Code; Sections 16118 and 16120.05, Welfare and Institutions Code.
- HISTORY**
1. Renumbering of former section 35001 to section 35002 and new section filed 9-8-93; operative 10-7-93 (Register 93, No. 37). For prior history, see Register 91, No. 52.
  2. New subsections (a)(1)-(4) and subsection renumbering, new subsection (a)(48), reservation of subsections (b)-(f)(2), new subsection (f)(3), reservation of subsections (f)(4)-(7), new subsections (f)(8)-(10) and amendment of NOTE filed 10-31-94 as an emergency; operative 11-1-94 (Register 94, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-1-95 or emergency language will be repealed by operation of law on the following day.
- § 35002. Initiating the Relinquishment or Consent Form.**
- (a) The relinquishment or consent form shall not be corrected or altered unless the correction or alteration is initiated by:
- (1) The parent who signed the form
  - (2) The reader or translator, if one was used
  - (3) The authorized representative of the agency
  - (4) The witnesses to the relinquishment.
- NOTE: Authority cited: Section 10553 and 10554, Welfare and Institutions Code; and Section 1530, Health and Safety Code. Reference: Sections 222.10 and 224.40, Civil Code.
- HISTORY**
1. New section filed 9-1-87; operative 10-1-87. Ed. Note: The printing of this regulation was delayed due to necessary reformatting (Register 88, No. 50). For history of former chapter 3, see Register 88, No. 1.
  2. Change without regulatory effect amending NOTE filed 8-2-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 52).
  3. Renumbering of former section 35001 to section 35002 and amendment of NOTE filed 9-8-93; operative 10-7-93 (Register 93, No. 37).



**EMERGENCY**  
**NOTICE PUBLICATION REGULATIONS SUBMISSION**

STD. 400 (REV. 2-91)

*Readopt*  
(See instructions on reverse)*Original*  
For use by Secretary of State only

AGENCY CALIFORNIA DEPARTMENT OF SOCIAL SERVICES				AGENCY FILE NUMBER (If any) 1293-50	
OAL FILE NUMBERS	NOTICE FILE NUMBER Z94-0415-01	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 95-0208-03ER	PREVIOUS REGULATORY ACTION NUMBER 94-0824-03ER	
For use by Office of Administrative Law (OAL) only					
NOTICE			<div style="border: 1px solid black; padding: 5px; text-align: center;"> <p>1995 FEB 9</p> <p>ENDORSED 3 00</p> <p>APPROVED FOR FILING AND PUBLICATION</p> <p>ADMINISTRATIVE LAW</p> <p>FEB , 9 1995</p> <p>Office of Administrative Law</p> </div>		
			<div style="border: 1px solid black; padding: 5px; text-align: center;"> <p>REGULATIONS</p> </div>		

**FILED**  
In the office of the Secretary of State  
of the State of California

FEB 9 1995

At 4:17 PM  
Bill Jones, Secretary of State  
Deputy Secretary of State

**A. PUBLICATION OF NOTICE** (Complete for publication in Notice Register)

1. TOPIC OF NOTICE California Alternative Assistance Program (CAAP)		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE	

**B. SUBMISSION OF REGULATIONS** (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)	
TITLE(S) MPP	ADOPT 40-020, 89-701, 89-705, 89-710, 89-715, 89-720, 89-725, 89-730, 89-735, and 89-740
SECTIONS AFFECTED	AMEND 40-131, 40-181, 44-111, 44-207, and 89-102
	REPEAL

**2. TYPE OF FILING**

☐ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☒ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify) \_\_\_\_\_

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State ☒ Effective on filing with Secretary of State ☐ Effective other (Specify) \_\_\_\_\_

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☒ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify) \_\_\_\_\_

6. CONTACT PERSON

Frank Vitulli, Chief, Office of Regulations Development

TELEPHONE NUMBER

657-2586

7.

**I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.**

SIGNATURE OF AGENCY HEAD OR DESIGNEE

*Eloise Anderson*  
TYPED NAME AND TITLE OF SIGNATORY

ELOISE ANDERSON, Director

DATE

FEB - 8 1995



**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

STD. 400 (REV. 2-91) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Adopt Section 40-020 to read:

40-020 IMPLEMENTATION OF CALIFORNIA ALTERNATIVE ASSISTANCE PROGRAM (CAAP) 40-020

- .1 The adoption of Chapter 89-700 and the amendment of Sections 40-131.3, 40-181.2, 44-111.3, 44-207.322, and 89-102, which implement the California Alternative Assistance Program (CAAP) shall be effective May 1, 1994. Counties are required to meet the CAAP informing requirements at application and redetermination of eligibility for applicants and recipients subject to the California Work Pays Demonstration Project (CWPDP) beginning May 1, 1994.
- .2 Chapter 89-700, for applicants and recipients subject to the CWPDP, is adopted to implement the CAAP to comply with the provisions of Welfare and Institutions Code Section 11280 (Chapter 69, Statutes of 1993).
- .3 Section 40-131 is amended to require that AFDC applicants be informed about CAAP at the time of AFDC application.
- .4 Section 40-181 is amended to require that AFDC recipients be informed about CAAP at the time of AFDC redetermination.
- .5 Section 44-111 is amended to exempt CAAP payments from consideration as income for AFDC.
- .6 Section 44-207 is amended to require that an individual be considered to have received an AFDC payment when the assistance unit (AU) has received benefits under the CAAP.
- .7 Section 89-102 is amended to require that CAAP be included in the CWPDP provisions of Section 89-700 et seq. The county shall apply these provisions to those applicants and recipients who are designated as members of the Project's control and experimental groups.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11280, Welfare and Institutions Code; and the Federal Terms and Conditions for the California Work Pays Demonstration Project as approved by the United States Department of Health and Human Services on March 9, 1994.

Amend Section 40-131.3 to read:

40-131 INTERVIEW REQUIREMENT (Continued)

40-131

.3 Content of Application Interview

HANDBOOK BEGINS HERE

- v. See Section 89-730 for the additional informing requirements for applicants subject to the California Work Pays Demonstration Project as specified in Division 89.

HANDBOOK ENDS HERE

Authority Cited: Sections 10553, 10554, 10604, and 18904, Welfare and Institutions Code.

Reference: Section 10613, 11209, 11280, 11324.8(a), AB 312, Chapter 1568, Statutes of 1990, 11500(b), and 11511(a), Welfare and Institutions Code; 7 USC 2020(i), 7 CFR 273.2(j), 42 USC 616(f), 682(c)(2), (3) and (4), 45 CFR 250.20, 45 CFR 250.40(a) and (b); 45 CFR 255.1; 45 CFR 256.1(b).

Amend Section 40-181.2 to read:

40-181 CONTINUING ACTIVITIES AND DETERMINATION OF ELIGIBILITY (Continued) 40-181

.2 Periodic Determination of Eligibility

HANDBOOK BEGINS HERE

See Section 89-730 for the additional informing requirement at eligibility redetermination for recipients subject to the California Work Pays Demonstration Project as specified in Division 89.

HANDBOOK ENDS HERE

Authority Cited: Sections 10553, 10554, 10604, 11265.1, and 18904, Welfare and Institutions Code.

Reference: 45 U.S.C. 616(b) and (f); 45 CFR 233.28 and 235.112(b); and Sections 10553, 10554, 10604, 11280, and 11486, Welfare and Institutions Code.

Amend Section 44-111.3 to read:

44-111 PAYMENTS EXCLUDED OR EXEMPT FROM CONSIDERATION AS INCOME  
(Continued)

44-111

.3 Exemption of Payments from Public Sources (Continued)

- h. Payments made for child care costs under the California Alternative Assistance Program are exempt from consideration as income.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 11008.15, ~~and~~ 11255, and 11280, Welfare and Institutions Code; 42 USC Section 602(g)(1)(E)(i); Section 202(a), Public Law 100-485; 45 CFR 244.0(c); 45 CFR 233.20(a)(4)(ii); 45 CFR 233.20(a)(11)(v)(C); 45 CFR 255.3(f)(1); ~~and~~ Federal Terms and Conditions for the California Assistance Payments Demonstration Project as approved by the United States Department of Health and Human Services on October 30, 1992; and the Federal Terms and Conditions for the California Work Pays Demonstration Project as approved by the United States Department of Health and Human Services on March 9, 1994.

Amend Section 44-207.322 et seq. to read:

44-207 INCOME ELIGIBILITY (Continued)

44-207

.3 Financial Eligibility (Continued)

.32 Net Nonexempt Income (Continued)

- .322 For purposes of determining financial eligibility, the earned income exemption (\$30 and 1/3) shall be applied subject to the limitations of Section 44-111.23\* and only if the person who earned the income was eligible for and received an AFDC payment from any state during at least one of the immediately preceding four months and is currently included in the ~~FY~~ AU.

HANDBOOK BEGINS HERE

\*See Section 89-301.1 for elimination of the 4-month time limit for the \$30 and 1/3 earned income disregards and elimination of the additional 8-month limit for the \$30 earned income disregard. This will apply to those recipients who are subject to the Assistance Payments Demonstration Project as specified in Division 89.

HANDBOOK ENDS HERE

- (a) A person is considered to have received an AFDC payment when:
1. The grant for the ~~FY~~ AU is reduced to zero to adjust or offset a prior overpayment/; or
  2. The AU has received benefits under the California Alternative Assistance Program as specified in Chapter 89-700.

Authority Cited: Sections 10553, 10554, 11450, and 11453, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 11017, ~~and~~ 11255, and 11280, Welfare and Institutions Code; 45 CFR 233.20(a)(2)(xiii) and (3)(vi)(B) and (xiv); and Darces v. Woods, 35 Cal. 3d 871; Rutan v. McMahon, Case No. 612542-L (Alameda Superior Court) February 19, 1988; Letter from Department of Health and Human Services (DHSS), December 5, 1990; Johnson v. Carlson Stipulated Judgement; ~~and~~ Federal Terms and Conditions for the California Assistance Payments Demonstration Project as approved by the United States Department of Health and Human Services on October 30, 1992; and the Federal Terms and Conditions for the California Work Pays Demonstration Project as approved by the United States Department of Health and Human Services on March 9, 1994.

Amend Section 89-102 to read:

89-102 FEDERAL DEMONSTRATION PROJECTS - INTRODUCTION

89-102

HANDBOOK BEGINS HERE

.1 Background

Pursuant to state law, the California Department of Social Services has requested and received federal approval for two California Demonstration Projects entitled the Assistance Payments Demonstration Project and the California Work Pays Demonstration Project. These Projects enable California, in accordance with their federally mandated Terms and Conditions, to implement certain new AFDC provisions.

The Assistance Payments Demonstration Project provisions are contained in Division 89. They include work incentive provisions, MAP reductions and a relocation grant restriction. The California Work Pays Demonstration Project provisions contained in Division 89 include increased property limits, ~~and~~ restricted accounts/, and the California Alternative Assistance Program. (For "Cal Learn" see Division 42.)

HANDBOOK ENDS HERE

.2 Control Group

Except for the provisions found in Chapter 89-700, related to the California Alternative Assistance Program, the county shall not apply the Division 89 Assistance Payments Demonstration Project and the California Work Pays Demonstration Project provisions to those applicants and recipients who are designated as members of the Projects' control groups. CAAP applies to both the experimental and control groups in all APDP/CWPDP counties. The designation and treatment of the control groups shall be accomplished pursuant to the Projects' mandated parameters outlined in the Federal Terms and Conditions as approved by the Secretary of the Department of Health and Human Services.

Authority Cited: Sections 10553, 10554, 11201.5, 11209, and 11450(g), Welfare and Institutions Code.

Reference: Sections 11155.1, 11155.2, 11201.5, 11450.01, ~~and~~ 11450.03, and 11280, Welfare and Institutions Code; 45 CFR 233.20(a)(3)(i)(B); Federal Terms and Conditions for the Assistance Payments Demonstration Project as approved by the United States Department of Health and Human Services on October 30, 1992; and Federal Terms and Conditions for the California Work Pays Demonstration Project as approved by the United States Department of Health and Human Services on March 9, 1994.

Adopt Chapter 89-700 and Section 89-701 to read:

89-700 CALIFORNIA ALTERNATIVE ASSISTANCE PROGRAM (CAAP)

89-701 THE CALIFORNIA ALTERNATIVE ASSISTANCE PROGRAM (CAAP)

89-701

HANDBOOK BEGINS HERE

.1 The California Alternative Assistance Program (CAAP) is mandated by Welfare and Institutions Code Section 11280 (Chapter 69, Statutes of 1993). It provides funding for child care to applicants eligible for or recipients of aid with earned income who voluntarily decline or refuse an AFDC grant. The objective of the CAAP is to provide an incentive to AFDC families with children to seek and/or maintain employment by removing the barrier of high child care costs. In assisting these families with their child care costs, it is hoped that employment will be obtained and maintained which will result in self-sufficiency from the welfare system.

HANDBOOK ENDS HERE

.2 A CAAP participant is:

.21 Considered an AFDC recipient.

.22 Subject to all requirements of the AFDC program.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11280, Welfare and Institutions Code; and the Federal Terms and Conditions for the California Work Pays Demonstration Project as approved by the United States Department of Health and Human Services on March 9, 1994.



Adopt Section 89-705 to read:

89-705 DEFINITIONS

89-705

.1 The following definitions pertain only to Chapter 89-700.

- (a) (1) "AU" means the AFDC assistance unit which consists of a group of related persons living in the same home who have been determined eligible for AFDC.
- (b) (1) "Budget Month" means the month preceding the report month and is used to determine the amount of the CAAP payment.
- (c) (1) "CAAP Participant" means an AFDC eligible person who has signed a CAAP agreement.
- (d) (1) "Date of Receipt" means the date that a document is received by the county, either through the mail or delivered in person.
- (e) (1) "Exempt from Licensing" means a child care provider who is not required to obtain a family day care license.

HANDBOOK BEGINS HERE

(A) Examples of when a day care license is not required pursuant to California Code of Regulations, Title 22, Section 101158, include:

- 1. The nonrelative child care provider cares for the children of only one family in addition to his/her own children;
- 2. The child care provider is related to the children for whom care is given;
- 3. The child care provider is a public or private school or recreation program; or
- 4. The child care is provided by a public or private school which operates a program before and/or after school for school-age children, providing the program offered by the school is operated by the school and run by qualified teachers employed by the school or the school district.

HANDBOOK ENDS HERE

- (f) (1) "Full-Time Child Care" means child care provided by a child care provider for more than 147 hours per calendar month.
- (g) through (o) Reserved

- (p)    (1)    "Part-Time Child Care" means child care provided by a child care provider for 147 hours or less per calendar month.
- (2)    "Payment Month" means the month following the report month.
- (q)            Reserved
- (r)    (1)    "Rate Ceiling" means the 75th percentile of the regional market rate or the 100th percentile of the regional market rate when the region has no more than two providers serving that age and category of care.
- (2)    "Regional Market Rate" means the costs of child care in each county differentiated by age of child, type of care, and whether the care is provided full- or part-time as established in the Regional Market Rate Ceilings for California Child Care Providers.
- (3)    "Report Month" means the month in which a CAAP participant is required to submit the monthly eligibility report which contains information from the previous month, also known as the budget month.
- (s) through (z)    Reserved

Authority Cited:    Sections 10553 and 10554, Welfare and Institutions Code.

Reference:            Sections 10553, 10554, and 11280, Welfare and Institutions Code.

Adopt Section 89-710 to read:

89-710 PROGRAM ELIGIBILITY

89-710

- .1 An AU shall be eligible to participate in CAAP if otherwise eligible for AFDC and all of the following conditions are met:
  - .11 A member of the AFDC AU is working and requires child care to remain employed.
  - .12 The CAAP participant signs a statement stating that it is clearly understood that to receive CAAP he/she must decline a cash grant.
  - .13 The child care costs are paid for a child who meets the following conditions:
    - .131 The child:
      - (a) Is in the AU; or
      - (b) Would be AFDC-FG/U eligible but for the receipt of federal foster care or Supplemental Security Income/State Supplementary Payment (SSI/SSP).
    - .132 The child is:
      - (a) Under the age of 13; or
      - (b) Over age 13 and is physically or mentally incapable of caring for himself/herself based on a written statement of a physician or a licensed or certified psychologist, and meets the age requirements under the AFDC program, as specified in Section 42-101; or
      - (c) Over age 13 and under court supervision as specified in Welfare and Institutions Code Sections 601 and 602 and meets the age requirements under the AFDC program, as specified in Section 42-101.
  - .14 The child care provider meets all the following conditions:
    - .141 Is 18 years old or older.
    - .142 Is not a parent or legal guardian of the child.
    - .143 Is not a member of the AU.
    - .144 Has a day care license or is exempt from licensing.

.15 The AU has provided the necessary information to determine CAAP eligibility and the CAAP payment, as specified in Section 89-725.1.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11265.1, 11280(b), and 11320.3(j)(5), Welfare and Institutions Code; 45 CFR 255.2(a) and (a)(1); 45 CFR 255.4(c)(2) and (f)(2); and 45 CFR 255.5(a).

Adopt Section 89-715 to read:

89-715 PAYMENT ELIGIBILITY

89-715

- .1 CAAP payments shall be used to pay for child care costs at the actual cost of care up to the federal maximum reimbursement rate (75th percentile) based on the monthly Regional Market Rate (RMR) ceilings.

HANDBOOK BEGINS HERE

- .11 The RMR ceilings are determined based on a statistically valid survey of the rates established by child care providers for private clients in accordance with Welfare and Institutions Code Section 11508(b).

- .111 The rate ceilings are determined based on:

- (a) The age of the child,
- (b) The type of care provided,
- (c) The number of hours of care, either full-time or part-time as defined in Section 89-705, and
- (d) The care provider's geographic location in California.

HANDBOOK ENDS HERE

- .2 The county shall only issue a CAAP payment when the child care hours claimed are for the following:

- .21 Work hours.
- .22 Transportation time between the worksite and the child care provider.
- .23 When necessary, hours based on the provider's standard billing practice.

HANDBOOK BEGINS HERE

- .24 Examples of eligible hours.

- .241 Example: A provider charges all families based on an hourly rate. The parent works from 4 p.m. to 12 a.m. The provider charges for nine hours of child care, because the parent leaves the child in care a half hour before starting work and a half hour after ending the work shift. The county would compare the hours worked including transportation time to the hours of care. A request for payment for nine hours of care would meet the payment eligibility requirements under this section.

.242 Example: A day care provider charges all families based on a weekly rate. The provider charges for any days the CAAP child is absent, regardless of the reason (i.e., holidays, sick days and vacation). Since this is the provider's billing practice for nonsubsidized families, a request for payment which includes these days would meet the payment eligibility requirements under this section.

HANDBOOK ENDS HERE

- .3 The county shall not approve a CAAP payment to a new child care provider if a payment was made for the same period of time to the prior-authorized provider unless care by the prior-authorized provider cannot be provided or the provision of care places the child at risk of harm.
- .4 When the beginning date of CAAP eligibility is after the first of the month, the CAAP payment as defined in Section 89-720.1 shall be prorated from the beginning date of aid in accordance with procedures specified in Section 44-315.7.

HANDBOOK BEGINS HERE

.41 Example: The CAAP participant became eligible for AFDC on the 17th of the month. The submitted child care receipt shows child care costs of \$150 for the whole month. The Reciprocal Table in Section 44-315.73 shows a figure of .4839 for the 17th day of a 31-day month. The total monthly CAAP payment amount x the reciprocal = the prorated CAAP amount (\$150 x .4839 = \$72.585). The \$72.585 is rounded down to \$72 which is the amount of the CAAP payment.

HANDBOOK ENDS HERE

- .5 The county shall not pay aid paid pending the state hearing decision for CAAP.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11280 and 11508(b), Welfare and Institutions Code; 45 CFR 255.1, (c), and (e)(4); 45 CFR 255.2, (a), (a)(1), and (h)(2); and 45 CFR 255.4(a), (a)(2)(ii), (c)(2), and (i)(1).

Adopt Section 89-720 to read:

89-720 CHILD CARE PAYMENT COMPUTATION

89-720

- .1 The county shall pay the lesser of the actual child care costs paid or the applicable monthly 75th percentile rate ceiling.

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- .11 Example: Child care costs are within the RMR.

An employed mother has two children, ages 5 and 1, in a child care center in Alameda County. The mother works 120 hours per month and child care is for 130 hours per month per child, which includes transportation time to and from work. The child care provider charges a weekly rate of \$75 for the 5-year-old and \$95 for the 1-year-old. The total child care cost the child care provider charges for the month is \$735, \$324 for the 5-year-old and \$411 for the 1-year-old.

CAAP COMPUTATION:

<u>(1) 5-year-old child:</u>	
<u>75th percentile mo. rate</u>	<u>\$328</u>
<u>Actual child care costs/mo.</u>	<u>\$324</u>
<u>(2) 1-year-old child:</u>	
<u>75th percentile mo. rate</u>	<u>\$442</u>
<u>Actual child care costs/mo.</u>	<u>\$411</u>
<u>CAAP Payment for 5-year-old child:</u>	<u>\$324</u>
<u>CAAP Payment for 1-year-old child:</u>	<u>+ \$411</u>
<u>TOTAL CAAP PAYMENT:</u>	<u>\$735</u>

- .12 Example: Child care costs exceed the RMR.

The AU of four includes a working father, an incapacitated mother on SSI, and two children ages 6 and 8. The father is employed 160 hours per month and child care is for 180 hours per month per child, which includes transportation time to and from work. The children are placed in a family day care home in Colusa County, where the monthly child care cost is \$365 per child.

CAAP COMPUTATION:

<u>(1) 6-year-old child:</u>	
<u>75th percentile</u>	<u>\$324.75</u>
<u>Actual child care costs</u>	<u>\$365.00</u>
<u>(2) 8-year-old child:</u>	
<u>75th percentile</u>	<u>\$324.75</u>
<u>Actual child care costs</u>	<u>\$365.00</u>

<u>CAAP Payment for 6-year-old child:</u>	<u>\$324.75</u>
<u>CAAP Payment for 8-year-old child:</u>	<u>+ \$324.75</u>
<u>TOTAL CAAP PAYMENT:</u>	<u>\$649.00</u>
	<u>(rounded down)</u>

HANDBOOK ENDS HERE

.2 Counties shall round payments to the nearest lower whole dollar.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11280 and 11508(b), Welfare and Institutions Code; 45 CFR 255.4(a) and (a)(2)(iii); and the Preamble (Federal Register Volume 54, No. 197, page 42233).



Adopt Section 89-725 to read:

89-725 CAAP PARTICIPANT'S RESPONSIBILITIES

89-725

- .1 The CAAP participant shall provide the following information to determine CAAP program and payment eligibility along with the monthly eligibility report in accordance with the time frames specified in Section 40-181.22.
  - .11 Verification of employment and the number of hours of employment;
  - .12 The name and birthdate of each child for whom care is to be provided;
  - .13 Total child care hours provided during the month including the scheduled hours of care;
  - .14 Total child care costs for the month;
  - .15 The care provider's name and address;
  - .16 Whether the provider is a licensed day care center, licensed family day care home, or an exempt day care provider; and
    - .161 The social security number (SSN) of an exempt provider, or
    - .162 The tax ID number for a licensed provider.
  - .17 A certification from the exempt day care provider that he/she is:
    - .171 At least 18 years of age;
    - .172 Whether he/she is a relative of the CAAP participant;
    - .173 When not related, that he/she provided the CAAP participant the name, address and telephone numbers of two character references;
    - .174 A statement as to his/her:
      - (a) Health,
      - (b) Education or experience; and
      - (c) Criminal record; and
    - .175 Names and ages of other persons in the home providing care.
  - .18 A declaration, signed under penalty of perjury, by the child care provider that the information submitted under Sections 89-725.13 through .17 is true and correct to the best of his/her knowledge.
  - .19 A declaration, signed under penalty of perjury, by the CAAP participant that the information submitted under Sections 89-725.11 through .15 is true and correct to the best of his/her knowledge.

- .2 The CAAP participant must notify the county of:
  - .21 Any changes in child care arrangements.
  - .22 Any changes in work status.
- .3 The CAAP participant must indicate to the county if he/she no longer chooses to participate in CAAP and now chooses to return to AFDC grant status.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11280, Welfare and Institutions Code; 45 CFR 255.1(e) and (e)(1); 45 CFR 255.2, (a), and (a)(1); and 45 CFR 255.4(c)(2).

Adopt Section 89-730 to read:

89-730 COUNTY RESPONSIBILITIES

89-730

.1 Informing and Participation

.11 The county shall inform AFDC/CAAP applicants and recipients in writing about the availability of the CAAP program at the following intervals:

.111 At the time of application as specified in Section 40-131.3.

.112 At the time of redetermination as specified in Section 40-181.2.

.12 The AFDC eligible person shall only be permitted to choose to participate in CAAP at the intervals specified in Sections 89-730.11.

.2 Signed CAAP Agreement

.21 Within 30 days of the completion of the eligibility determinations made at the intervals specified in Section 89-730.11, the county shall obtain a signed statement from the individual choosing CAAP which shall contain the following information:

.211 The choice for CAAP means refusing an AFDC grant in order to receive child care assistance.

.212 The failure to provide the monthly eligibility report and child care information to the county in a timely manner may result in delay of issuance or discontinuance of CAAP payments.

.213 The CAAP participant has the right to request a state hearing regarding CAAP benefits, but aid paid pending the state hearing decision is not available.

.214 The CAAP participant's rights will be waived for any other AFDC assistance programs such as the Reduced Income Supplemental Payments (RISP), Homeless Assistance, and/or special needs.

.3 General

.31 The county shall determine a CAAP participant's AFDC eligibility on a monthly basis by utilizing all AFDC eligibility criteria pursuant to Sections 44-207.2 and .3.

.32 The county shall issue the CAAP payment to eligible CAAP participants in accordance with the standard delivery dates of aid payments in Sections 44-304.5 or 44-305.2.

.33 The county shall discontinue CAAP eligibility on the last day of the month in the following situations:

.331 When the CAAP participant did not meet the eligibility criteria specified in Sections 89-710 (Program Eligibility) and 89-715 (Payment Eligibility).

.332 When the required information is not submitted by the first day of the payment month.

.34 The county shall rescind the discontinuance of the CAAP payment and restore the CAAP payment if the CAAP participant meets the good cause criteria, specified in Section 40-181.233, and meets the reporting requirements as specified in Section 40-181.222.

.35 In addition to the AFDC case documentation, the county shall include the following in the CAAP participant's file:

.351 The information reported by the CAAP participant in Sections 89-725.1, .2, and .3; and

.352 All notices of action (NOAs) sent to the CAAP participant; and

.353 Documentation of the need for child care for a child age 13 or over. (See Section 89-710.132(b) or (c).)

.36 Counties shall verify the child care provider's SSN with the Social Security Administration according to provisions in Manual of Policies and Procedures Division 20.

.361 Counties shall deny the CAAP payment when the SSN is determined not to be authentic.

.37 Counties shall compare the child care provider's SSN with the Medi-Cal Eligibility Data System (MEDS) to determine whether the provider is on aid and is reporting the earned income in accordance with Section 40-181.241(e).

#### .4 Prospective and Retrospective Payments

##### .41 Prospective Payment Procedures

.411 The county shall prospectively budget the CAAP payment when the applicant or recipient is subject to prospective budgeting pursuant to Section 44-313.1.

.412 The county shall make a reasonable estimate of the child care costs using the procedures for calculating a payment specified in Section 89-720.1.

##### .42 Retrospective Payment Procedures

.421 AFDC recipients who choose CAAP shall continue in retrospective budgeting pursuant to Section 44-313.2.

HANDBOOK BEGINS HERE

(a) Example:

<u>May</u>	<u>June</u>	<u>July</u>
<u>AFDC Recipient indicates choice on monthly eligibility report.</u>	<u>AFDC Recipient signs CAAP agreement and continues to receive the AFDC grant based on costs reported on the April monthly eligibility report.</u>	<u>CAAP participant receives CAAP payment based on costs reported on the May monthly eligibility report.</u>

HANDBOOK ENDS HERE

.422 CAAP participants who choose to return to AFDC grant status shall continue in retrospective budgeting.

HANDBOOK BEGINS HERE

(a) Example:

<u>July</u>	<u>August</u>	<u>September</u>
<u>CAAP participant reports income. He/she decides to no longer participate in CAAP.</u>	<u>County receives the July monthly eligibility report on which the CAAP participant indicated his/her decision. The CAAP agreement is rescinded and a final CAAP payment is issued.</u>	<u>Former CAAP participant receives the AFDC check based on his/her July income.</u>

HANDBOOK ENDS HERE

.5 CAAP Notice Requirements

.51 The county shall notice CAAP participants in accordance with the definitions of timely and adequate notice requirements, as specified in Manual of Policies and Procedures Section 22-001, for the following:

.511 Initial approval of CAAP eligibility and amount of payment.

.512 Denial or discontinuance of a CAAP payment.

.513 Change in the rate ceiling described in Handbook Section 89-715.11.

.514 CAAP overpayment/underpayment adjustments, as specified in Section 89-735.

.515 Return to AFDC grant status.

.516 Nonreceipt of the monthly child care eligibility report or an incomplete monthly child care eligibility report.

.52 The county shall follow the contact procedures for late and incomplete monthly eligibility reports as specified in Section 40-181.221.

.6 Inter-County Transfers

.61 The inter-county transfers shall occur in the same manner for a CAAP participant as for an AFDC recipient. A new CAAP agreement shall be signed in the new county and provide all pertinent provider information.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11280(b) and (c), Welfare and Institutions Code; 45 CFR 233.22, .24, .25, .29(b) and (c), .34(b) and (c)(3), .35, and .36; 45 CFR 255.1(c), (e), and (e)(4); 45 CFR 255.2(a), (g)(1), (g)(2), (h), (h)(1), and (h)(2); 45 CFR 255.3(b), (c), and (h); and 45 CFR 255.4(a) and (a)(2)(iii), (c)(2), (f)(2), and (h).

Adopt Section 89-735 to read:

89-735 UNDERPAYMENTS AND OVERPAYMENTS

89-735

.1 General Criteria

- .11 Underpayments occur when a CAAP payment made to the CAAP participant is less than what he/she is entitled to receive.
  - .111 Action to correct underpayments shall be taken within 30 calendar days from the date the county determines that an underpayment exists.
- .12 Overpayments occur when a CAAP payment to the CAAP participant exceeds what he/she is entitled to receive.
- .13 The county shall take all reasonable steps necessary to promptly collect any overpayment that is known to the county.
  - .131 The county shall refer cases of suspected fraud to the county Special Investigative Unit (SIU) under Manual of Policies and Procedures Section 20-005.
  - .132 The county shall attempt recovery efforts in all cases of current and former CAAP participants.
- .14 The county shall recover CAAP overpayments from any person who was a member of the AU at the time the AU was overpaid.

.2 Recovery of Overpayments

- .21 When the county determines that an overpayment exists, the county shall calculate the amount of the overpayment and determine the appropriate method of recovery.
  - .211 Recovery methods may be used concurrently.
  - .212 The county shall take steps to initiate the recovery promptly by notifying the individual in writing that he/she has an overpayment and how recovery will occur as specified in Sections 89-735.22 and .23.
- .22 Overpayment Recovery from Current CAAP Participants
  - .221 Balancing
    - (a) When an individual has both an overpayment and an underpayment, the county may offset one against the other.

.222 CAAP Payment Adjustment

(a) The overpayment is to be adjusted from the current CAAP payment subject to Section 89-735.222(b).

(1) When the current CAAP payment amount is not enough to recover the entire overpayment, the remaining amount of the overpayment shall be applied to succeeding month(s) and the adjustment process shall be repeated.

(b) Recovery from the current CAAP payment(s) shall be ten percent of the total payment or \$21, whichever is greater, but the recovery shall not exceed the current CAAP payment.

.223 Voluntary Cash Recovery

(a) The county shall accept any voluntary cash payment from an individual to pay any portion of an existing overpayment.

.23 Overpayment Recovery from Former CAAP Participants Who Presently Receive an AFDC Grant and from Former CAAP Participants No Longer Receiving AFDC/CAAP

.231 The county shall demand in writing, the repayment of any outstanding overpayment amount from any individual who is no longer eligible to receive CAAP payments or AFDC.

.232 A former CAAP participant receiving an AFDC grant shall be permitted to have CAAP overpayments adjusted from his/her grant when:

(a) The CAAP participant and the county voluntarily agree with the amount of the AFDC grant adjustment.

(b) The individual signs a written agreement with the county.

.233 Once the demand letter for repayment has been sent, the county shall continue recovery efforts of CAAP overpayments in:

(a) All cases of fraud;

(b) All cases of current CAAP participants; or

(c) All cases of former CAAP participants when the overpayment amount would equal or exceed the cost of recovery.

.234 The county shall recoup CAAP overpayments from families receiving:

(a) TCC payments by following TCC overpayment collection procedures specified in Section 47-190.



(b) SCC payments by following SCC overpayment collection procedures specified in Section 44-508.

.3 Overpayment Record Maintenance

.31 The county shall maintain a record of the overpayment including all notices and agreements, the repayment dates and amounts recovered.

.32 Once collection of the overpayment is completed, the overpayment records shall be retained in accordance with requirements for records retention of public assistance cases, as specified in Manual of Policies and Procedures Section 23-353.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11280, Welfare and Institutions Code; 45 CFR 233.20(a)(13)(i); 45 CFR 255.4(j)(1), (4), (5), (6), (7), and (8); and the Preamble (Federal Register Volume 54, No. 197, page 42234).

Adopt Section 89-740 to read:

89-740 DATA COLLECTION

89-740

.1 The county shall collect and report data as required by CDSS.

.11 Information shall include, but is not limited to, the following:

.111 Total number of AFDC families receiving CAAP payments each month, including the

(a) Number of CAAP-FG families receiving CAAP payments each month, and

(b) Number of CAAP-U families receiving CAAP payments each month.

.112 Total number of children receiving CAAP payments each month by the type of child care (i.e., licensed or exempt, relative or non-relative, inside or outside child's home, family day care, or center care);

(a) Number of CAAP-FG children receiving CAAP payments each month by the type of care, and

(b) Number of CAAP-U children receiving CAAP payments each month by the type of care.

.113 Expenditures for children receiving CAAP payments each month by the type of child care (i.e., licensed or exempt, relative or non-relative, inside or outside child's home, family day care, or center care);

(a) Amount of expenditures for CAAP-FG children each month by type of care, and

(b) Amount of expenditures for CAAP-U children each month by type of care.

.114 Number of months that each family has received child care services.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11280, Welfare and Institutions Code and Federal Action Transmittal JOBS-ACF-AT-92-1.

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91)

## AGENCY

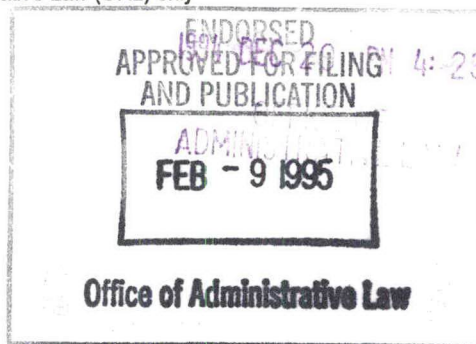
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

(See instructions on reverse)

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER	AGENCY FILE NUMBER (if any)	PREVIOUS REGULATORY ACTION NUMBER
	Z94-0726-13	94-1229-03C	94-0816-05E	RDB #0594-16	

For use by Office of Administrative Law (OAL) only



NOTICE

REGULATIONS

**FILED**  
In the office of the Secretary of State  
of the State of California

FEB 9 1994

At 4:17 O'clock P.M.  
BILL JONES, Secretary of State  
By [Signature] Deputy Secretary of State

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE Mickey Leland Childhood Hunger Relief Act		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE	
			94, #31-2	8-5-94	

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

## 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S)	ADOPT
MPP	63-023
SECTIONS AFFECTED	AMEND
	63-102, 63-402, 63-407, 63-501, 63-502, 63-503, 63-504, 63-505, and 63-1101
	REPEAL

## 2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Emergency (Gov. Code, § 11346.1(b))

☒ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify) \_\_\_\_\_

## 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

December 1, 1994 through December 16, 1994 (See attached.)

## 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State ☒ Effective on filing with Secretary of State ☐ Effective other (Specify) \_\_\_\_\_

## 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify) \_\_\_\_\_

## 6. CONTACT PERSON

Frank Vitulli, Chief, Office of Regulations Development

## TELEPHONE NUMBER

657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

[Signature]  
TYPED NAME AND TITLE OF SIGNATORY

DATE

DEC 28 1994

ELOISE ANDERSON, Director

**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

STD. 400 (REV. 2-91) ( REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Std. 400  
Page 2

3. Amend Sections 63-023, 63-102, 63-501, 63-502, 63-503, and 63-504

Amend Section 63-023.4 to read:

63-023 IMPLEMENTATION OF PROVISIONS OF THE MICKEY LELAND CHILDHOOD  
HUNGER RELIEF ACT (P.L. 103-66)

63-023

- .1 County welfare departments (CWDs) shall implement any changes in regulatory provisions based on the effective date of these amendments regardless of budgeting method.
- .2 Section 63-023; Sections 63-102i.(4), and t.(5); Sections 63-402.146, .42, .421, .62, and .621(b); Sections 63-407.811(c)(1)(B) and .832; Sections 63-501.3(k)(16) and (16)(A), .521(h), .522, .522(a) and (b), .524 and .524(a), .525, and .526; Sections 63-502.2(b)(2)(C) and (D), and (i); Sections 63-503.13, .471, and .472; Sections 63-504.311(e)(1) and .618(c) and (e); Section 63-805.1; and Handbook Section 63-1101.23, as amended herein, shall become effective September 1, 1994.
- .3 For all food stamp applicants, the regulations become effective on September 1, 1994. Restored benefits are to be provided back to the date of application or September 1, 1994, whichever occurred later.
- .4 For continuing cases, these provisions shall be implemented upon request by the household, at recertification, when the case is next reviewed, or when the county welfare department becomes aware that a review is needed, whichever occurs first.
- .5 Sections 63-102h.(1) and 63-502.2(j), as amended herein as a result of Hamilton v. Madigan (9th Cir. 1992) 961 F.2d 838 and the subsequent district court orders in Hamilton v. Lyng, were effective with the August 1, 1988 allotments. Food Stamp benefits are to be restored retroactive to July 1, 1988 to recipients whose allotments were reduced, suspended or terminated because the homeless assistance they received was counted as income. AFDC homeless assistance payments are to be excluded from income in any state hearing decisions regardless of whether the CWD action occurred before or after the effective date of the injunction. This would include cases pending back to February 1, 1988.

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Public Law 103-66, Section 13971(b)(4); U.S.D.A. Food and Nutrition Service Administrative Notice 94-39; and the July 8, 1988 and July 26, 1988 district court orders in Hamilton v. Lyng.

Amend Sections 63-102i.(4) and i.(4)(A)(b) to read:

63-102 DEFINITIONS (Continued)

63-102

h. (1) "Homeless Assistance" payments for AFDC are considered "nonrecurring lump sum payments" and include:

(A) Payments for "temporary shelter assistance" for a homeless family seeking permanent housing, not to exceed the current temporary shelter consecutive-day time limit.

(B) Payments for "permanent housing" to pay for security deposits and utility deposits once permanent housing is located.

"AFDC Interim shelter" payments are not to be included as "Homeless Assistance" under this definition.

(2) (Continued)

(3) (Continued)

(4) (Continued)

i. (Continued)

(4) "Initial Application and Certification" means/ the first application for certification filed, or an application for certification filed after any break in certification.

(A) For the purpose of prorating benefits (see Section 63-503.13):

(a) The first application for benefits a household has ever filed, or

(b) An application for certification filed after any period of more than one month, fiscal or calendar depending on the county's issuance cycle, during which the household was not certified for participation. (Continued)

t. (1) (Continued)

(2) (Continued)

(3) (Continued)

(4) (Continued)

- (5) "Transitional housing" means time limited residency to facilitate the movement of homeless individuals and families to permanent housing. The residency shall be determined to be time limited when the household states that their housing situation is temporary, or the CWD or the housing unit imposes a time limit.

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Sections 10554 and 18904, Welfare and Institutions Code; 8 U.S.C.A. Section 1522(e); 42 U.S.C.A. 601, et seq.; and 42 U.S.C.A. 5122; 7 CFR 273.1(c)(5); 7 CFR 271.2; 7 CFR 273.2, (j), and (j)(4); 7 CFR 273.9(c)(1)(ii)(D); 7 CFR 273.11(a)(2)(iii); 7 CFR 273.16(c); 7 CFR 273.21(b); 7 CFR 274.3(a)(2); 7 CFR 2710.2; 45 CFR 401; 45 CFR 400.62; (Court Order re Final Partial Settlement Agreement in Jones v. Yeutter (C.D. Cal. Feb. 1, 1990) \_\_\_\_\_ F. Supp. \_\_\_\_\_ [Dock. No. CV-89-0768]); Section 66011, Education Code; Public Law (P.L.) 102-237, Section 902; 7 U.S.C. 2014(c)(2)(B) and (k)(2)(F); U.S.D.A. Food and Nutrition Service Administrative Notice 94-39; Hamilton v. Madigan (9th Cir. 1992) 961 F.2d 838.



.1 Household Definition

.14 Separate household status shall not be granted to: (Continued)

.146 Children of narcotic addicts or alcoholics who reside at a treatment center as specified in Section 63-402.4. (Continued)

.4 Residents of Institutions (Continued)

.42 Narcotic addicts or alcoholics who, for the purpose of regular participation in a drug or alcohol treatment and rehabilitation program, reside at a treatment center. An individual must be a resident of the center and participating in the treatment or rehabilitation program to qualify for the Food Stamp Program as outlined in Section 63-503.47. In addition, children of narcotic addicts or alcoholics, residing in centers providing meals, shall qualify for the Food Stamp Program as specified in Section 63-503.47.

.421 If the spouse and/or family members (other than the children of the narcotic addict or alcoholic) reside at the treatment or rehabilitation center, but do not receive treatment and the center customarily provides meals for residents, the spouse and/or family members are residents of an institution and are not eligible for food stamp benefits. If the treatment or rehabilitation center does not provide meals to the spouse and/or family members residing at the center, the spouse and/or family members are roomers and may participate in the Food Stamp Program as separate households if otherwise eligible as specified in Section 63-402.2. (Continued)

.6 Authorized Representatives (Continued)

.62 Drug addict/alcoholic treatment centers and group living arrangements as authorized representatives. Narcotic addicts or alcoholics who regularly participate in a drug or alcoholic treatment program on a resident basis and disabled or blind residents of group living arrangements as defined in Section 63-102g(2) who receive benefits under Title II or Title XVI of the Social Security Act may elect to participate in the food stamp program. However, if per Section 63-402.2, Title XVI recipients are ineligible for food stamps, this ineligibility shall apply to Title XVI (SSI) recipients residing in group living arrangements.

.621 (Continued)

- (b) Each resident participating in the treatment program, together with his/her children, shall be certified as an individual household without regard to a spouse and/or family members (other than the children of the narcotic addict or alcoholic) who may or may not reside at the treatment center.

Authority Cited: Section 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.1(a)(1) through (b)(1); 7 CFR 273.1(a)(2)(i)(B) and (C); 7 CFR 273.1(b)(1)(iii); 7 CFR 273.1(b)(2)(iii); 7 CFR 273.1(c); 7 CFR 273.1(c)(1); 7 CFR 273.1(e)(1); 7 CFR 273.1(d)(1) and (2); 7 CFR 273.1(g); 7 CFR 273.2(j)(4); 7 CFR 273.10(c)(1)(i); 7 CFR 274.5 and 7 CFR 274.10; USDA Administrative Notice 89/65/Policy Memo 89-11 and 89-12, and U.S.D.A. Food and Nutrition Service Administrative Notice 94-39; Sections 10554 and 18904, Welfare and Institutions Code; and 7 U.S.C. 2012.

.8 Food Stamp Employment and Training Program

.81 CWD Screening

The CWD shall screen each work registrant to determine whether or not the registrant will participate or be deferred from the FSET Program. This requirement shall not apply in counties that are totally geographically excluded as allowed in Section 63-407.842.

.811 The following registrants shall be deferred from mandatory participation until the CWD determines that the situation precluding participation no longer exists. (Continued)

(c) A person who is unable to participate due to personal circumstances. This shall include persons who:

(1) Lack dependent care;

(A) Lack of child care is defined in accordance with Section 63-408.41(j).

(B) Lack of dependent care shall be determined if dependent care costs exceed the maximum dependent care deduction per month per dependent. (The current amounts are reproduced in Handbook Section 63-1101.23.) (Continued)

.83 Participant Reimbursement

As of July 1, 1989 and thereafter, the CWD shall reimburse participants, including volunteers and applicants, for costs that are reasonably necessary and directly related to participation as specified in Sections 63-407.831, .832 and .833. The CWD shall inform each participant that allowable expenses up to the amounts identified in this section shall be reimbursed upon presentation of appropriate documentation. (Continued)

.832 For dependent care costs, the CWD shall reimburse the actual cost in an amount not to exceed the maximum dependent care deduction per month per dependent. (Continued)

Authority Cited: Sections 10553, 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.1(d)(2); 7 CFR 273.7(d)(1)(ii)(A) and (E); 7 CFR 273.7(f), (f)(1)(vi), (f)(2), and (f)(4)(ii); 7 CFR 273.7(g)(1)(ii) and (iii); Sections 10554 and 18904, Welfare and Institutions Code; 7 U.S.C. 2014(e) and 7 U.S.C. 2015(d)(4)(I)(i)(II), and U.S.D.A. Food and Nutrition Service Administrative Notice 94-39.

Amend Sections 63-501.3(k) (16) through (18) and (1) to read:

63-501 RESOURCE DETERMINATIONS (Continued)

63-501

.3 Exclusions from Resources

In determining the resources of a household, only the following shall be excluded: (Continued)

- (k) Resources which are excluded for food stamp purposes by federal statute. The following is a listing of some of the resources excluded by federal statute: (Continued)

(16) Earned Income Tax Credit (EITC) payments received by any household member as an advance payment of in the form of a lump sum. These payments shall be excluded for 12 months, provided the household was participating in the food stamp program at the time of receipt of the EITC and provided the household participates continuously during that 12-month period. (Public Law 103-66)

A/ Continuous participation includes breaks in participation of one month or less due to administrative reasons, such as delayed recertifications or missing or late CAS.

B/ If the pay stub does not indicate an EITC advance payment was received, no further action is required.

C/ If it is unclear from the pay stub what amount of EITC advance payment the recipient received, the CWD shall obtain clarification from the recipient and contact the employer if necessary to obtain the amount.

(176) (Continued)

(187) (Continued)

- (1) Effective September 26, 1980, payments received pursuant to the settlement of Underwood v. Harris, which represent a reimbursement for increased tax and utility costs from 1973 through 1977, are excluded for the month in which the payment was received and for the following month. Thereafter, any amount remaining shall be treated in accordance with Section 63-501.11.

Earned Income Tax Credits (EITC) payments shall be excluded as follows:

- (1) A federal EITC payment received either as a lump sum or as payments under Section 3507 of the Internal Revenue Code for the month of receipt and the following month for the individual and that individual's spouse.

- (2) Any federal, state or local EITC payment received by any household member shall be excluded for 12 months, provided the household was participating in the Food Stamp Program at the time of receipt of the earned income tax credit and provided the household participates continuously during that 12-month period. Continuous participation includes breaks in participation of one month or less due to administrative reasons, such as delayed recertifications or missing or late CA 7s.
- (3) The following provisions apply to both Sections 63-501.3(1)(1) and (2).
- (A) If the pay stub does not indicate an EITC advance payment was received, no further action is required.
- (B) If it is unclear from the pay stub what amount of EITC advance payment the recipient received, the CWD shall obtain clarification from the recipient and contact the employer if necessary to obtain the amount. (Continued)

.5 Resource Values

The value of nonexcluded resources, except licensed vehicles as specified in Section 63-501.52, shall be their equity value. The equity value is the fair market value less encumbrances. (Continued)

.52 Handling of Licensed Vehicles. (Continued)

- .521 The entire value of any licensed vehicle shall be excluded if the vehicle meets any of the following conditions: (Continued)
- (h) If the household depends upon the vehicle to carry fuel for heating or water for home use, when such transported fuel or water is the primary source of fuel or water for the household.
- .522 All licensed vehicles not excluded under Section 63-501.521 shall individually be evaluated for fair market value and that portion of the value which exceeds the current vehicle exclusion limit, as specified in Section 63-501.522(a), shall be attributed in full toward the household's resource level, regardless of any encumbrances on the vehicles. Any value in excess of the current vehicle exclusion limit shall be attributed to the household's resource level, regardless of the amount of the household's investment in the vehicle, and regardless of whether or not the vehicle is used to transport household members to and from employment. Each vehicle shall be appraised individually. The fair market values of two or more vehicles shall not be added together to reach a total fair market value in excess of the current vehicle exclusion limit.

(a) The vehicle exclusion limit for vehicles shall be:

- (1) \$4,500 through August 31, 1994;
- (2) \$4,550 from September 1, 1994 through September 30, 1995;
- (3) \$4,600 from October 1, 1995 through September 30, 1996; and
- (4) \$5,000 from October 1, 1996 through September 30, 1997.

HANDBOOK BEGINS HERE

(b) For example, through August 31, 1994, a household owning an automobile with a fair market value of \$5,500 shall have \$4,500 excluded and \$1,000 applied toward its resource level.

HANDBOOK ENDS HERE

.523 (Continued)

.524 In the event a licensed vehicle is assigned both a fair market value in excess of the vehicle exclusion limit as specified in Section 63-501.522(a) and an equity value, only the greater of the two amounts shall be counted as a resource.

HANDBOOK BEGINS HERE

(a) For example, a second car which is not used by a household member to go to work will be evaluated for both fair market value and for equity value. Based on a vehicle exclusion limit of \$4,500, if the fair market value is \$5,000 and the equity value is \$1,000 the household shall be credited with only the \$1,000 equity value, and the \$500 excess fair market value will not be counted.

.525 In summary, each licensed vehicle shall be handled as follows: First, it will be evaluated to determine if it is excluded as specified in Section 63-501.521. If not excluded, it will be evaluated to determine if its fair market value exceeds the current vehicle exclusion limit. If worth more than the current vehicle exclusion limit, the portion in excess of the limit for each vehicle will be counted as a resource. The vehicle also will be evaluated to see if it is exempt from equity valuation for reasons such as the household's only vehicle or necessary for employment as specified in Section 63-501.523. If not equity exempt, the equity value will be counted as a resource. If the vehicle has a countable market value of more than the current

vehicle exclusion limit and also has a countable equity value, only the greater of the two amounts shall be counted as a resource.

HANDBOOK ENDS HERE

.526 Determining Value of Licensed Vehicles

TABLE 1

Step 1	Step 2	Step 3
Totally exclude if:	Determine Fair* Market Value (FMV)	Determine Equity Value* if Not Excluded for the Following Reasons:
1. through 6. (Continued)		
7. Household depends on vehicle to carry fuel for heating or water for home use when such fuel or water is the primary source of fuel or water for the household.		
IF NONE OF THE ABOVE GO TO STEP 2	COUNT ONLY THE EXCESS OVER THE CURRENT VEHICLE EXCLUSION LIMIT FOR EACH VEHICLE AND IF THE TOTAL EXCESS DOES NOT EXCEED THE HOUSEHOLD'S VEHICLE EXCLUSION LIMIT THEN GO TO STEP 3	IF THE FMV AND EQUITY ARE DETERMINED FOR ANY ONE VEHICLE, ONLY THE GREATER OF THE TWO AMOUNTS SHALL BE COUNTED TOWARD THE HOUSEHOLD'S RESOURCE LIMITS

\* Equity value equals FMV less encumbrances.

Authority Cited: Sections 10553, 10554, 11209 and 18904, Welfare and Institutions Code.



Reference:

Sections 10554, 18901, and 18904, Welfare and Institutions Code; 7 CFR 272.8(e)(17); 7 CFR 273.2(j)(4); and 7 CFR 273.8(e)(11) and (h); Public Law (P.L.) 100-50, Sections 22(e)(4) and 14(27), enacted June 3, 1987; P.L. 101-201; P.L. 101-426, Section 6(h)(2), as specified in U.S.D.A. Food and Nutrition Service Administrative Notice 91-37; P.L. 101-508, Section 11111(b); P.L. 101-624, Section 1715; P.L. 102-237, Section 905, as specified in Federal Administrative Notice 92-12, dated January 9, 1992; Section 2466d., Title 20, United States Code (U.S.C.); 7 U.S.C. 2014(d) and (g)(2) and (3); 26 U.S.C. 32(j)(5); 42 U.S.C.A. 5122 as amended by P.L. 100-707, Section 105(i); U.S.D.A. Food and Nutrition Service Administrative Notices 91-30 and 94-39; and Index Policy Memo 90-22, dated July 12, 1990.

Amend Sections 63-502.2(b)(2)(C) and .352(a) to read:

63-502 INCOME, EXCLUSIONS AND DEDUCTIONS (Continued)

63-502

.2 Income Exclusions. Only the following items shall be excluded from household income: (Continued)

(b) Vendor payments. Money that is not legally obligated to be paid to the household, but which is paid to a third party for a household expense by a person or organization outside of the household. (Continued)

(2) An AFDC, GA/GR, RCA or ECA payment shall be considered an excludable vendor payment and not counted as income to the household if that payment is for: (Continued)

(C) Energy assistance [as defined in Section 63-501.3(k)(7)] or a GA payment made to ~~the~~ a third party on behalf of a household for energy or utility-cost assistance;

(D) Housing assistance payments made to a third party on behalf of a household residing in transitional housing [see Section 63-102(t)] for the homeless; or

(E) (Continued)

(i) The earned income (as defined in Section 63-502.13) of children who are members of the household, who are elementary or secondary school students at least half time, and who have not attained their 22nd birthday at the beginning of the budget month. The exclusion shall continue to apply during temporary interruptions in school attendance due to semester or vacation breaks, provided the child's enrollment will resume following the break. If the child's earnings or amount of work performed cannot be differentiated from that of other household members, the total earnings shall be prorated equally among the working members and the child's pro rata share shall be excluded. Individuals are considered children for purposes of this provision if they are under the parental control, as defined in Section 63-102p.(1), of another household member.

(j) Money received in the form of a nonrecurring lump-sum payment, including, but not limited to, income tax refunds, rebates, or credits; retroactive lump-sum social security, railroad retirement benefits, or other payments; retroactive payments from the approval of an application for any assistance program; AFDC homeless assistance payments for temporary shelter or permanent housing [see Section 63-102(h)]; court ordered retroactive payments for any assistance program; supplemental or corrective payments received for a previous month from any assistance program; lump-sum insurance settlements; or

refunds of security deposits on rental property or utilities. These payments shall be counted as resources in the month received, in accordance with Section 63-501.111 unless specifically excluded from consideration as a resource by other federal laws as specified in Section 63-501.3(k) or (l). (Continued)

.3 Income Deductions (Continued)

.35 Excess Shelter Deduction (Continued)

.352 Shelter costs shall include only the following:

- (a) The homeless standard shelter allowance is available to homeless households who are not receiving free shelter for the entire ~~calendar~~ month, fiscal or calendar, depending on the county's issuance cycle. If the homeless standard shelter allowance is used, separate utility costs may not be claimed since this allowance includes a utility cost component. (Continued)

Authority Cited: Sections 10553, 10554, 11209 and 18904, Welfare and Institutions Code.

Reference: Sections 10554, 18901, and 18904, Welfare and Institutions Code; Public Law (P.L.) 100-50, Sections 22(e)(4) and 14(27), enacted June 3, 1987; P.L. 100-77; P.L. 101-201; P.L. 101-508, Section 11111(b); 7 CFR 271.2; 7 CFR 273.7(f); 7 CFR 273.9; 7 CFR 273.9(b)(1); 7 CFR 273.9(c); 7 CFR 273.9(d); 7 CFR 273.11(d)(1); 7 CFR 273.21(j)(1)(vii)(A); 7 U.S.C. 2014(d), (k)(1)(B), and (k)(2)(F); 7 U.S.C. 2015(e); 20 U.S.C. 2466d.; 26 U.S.C. 32(j)(5); (Court Order re Final Partial Settlement Agreement in Jones v. Yeutter (C.D. Cal Feb. 1, 1990) \_\_\_\_ F. Supp. \_\_\_\_ [Dock. No. CV-89-0768].); U.S.D.A. Food and Nutrition Service Administrative Notice 88-40, Indexed Policy Memo 88-10, dated April 20, 1988; U.S.D.A. Food and Nutrition Service Administrative Notices 91-24, 91-30, and 94-39; U.S.D.A Food and Nutrition Service Waiver Letter WFS-100:FS-10-6-CA, dated October 2, 1990; and the July 8, 1988 district court order in Hamilton v. Lyng.

Amend Sections 63-503.13 and .16 to read:

63-503 DETERMINING HOUSEHOLD ELIGIBILITY AND BENEFIT LEVELS

63-503

.1 Month of Application (Continued)

.13 A household's benefit level for a) the initial month of certification, or b) the first month for which the household is certified for participation in the Food Stamp Program following any period of more than one month, fiscal or calendar depending on the county's issuance cycle, during which the household was not certified for participation, shall be prorated from the date the application is received in the appropriate office. Households which have a break in participation of one month or less shall not have their benefits prorated. They shall receive benefits for the whole month. (Continued)

.16 ~~Households which apply for benefits after the 15th day of the month and have been determined eligible to receive benefits for the initial month and the subsequent month, shall receive both allotments at the same time.~~

Households who have not participated in the Food Stamp Program in the month before the month of application, and who apply for benefits after the 15th day of the month, and have been determined eligible to receive benefits for the initial month and the subsequent month, shall receive both allotments at the same time.

.4 Households with Special Circumstances (Continued)

.47 Residents of Drug/Alcoholic Treatment and Rehabilitation Programs (Continued)

.471 Narcotic addicts or alcoholics who regularly participate in drug or alcoholic treatment and rehabilitation programs on a resident basis may be eligible for food stamps, as specified in Section 63-402.4. These programs must provide meals to residents to qualify as eligible institutions. Residents of those programs that do not provide meals may apply as roomers, as provided in Section 63-402.21, and are not subject to the provisions of this section.

.472 A resident narcotic addict or alcoholic in a center providing meals, together with the resident's children staying in the center, shall have their eligibility determined as an individual household. The CWD shall certify residents of addict/alcoholic treatment centers by using the same provisions that apply to all other applicant households, except that certification must be accomplished through an authorized representative, as described in Section 63-402.62.

.473 (Continued)

- .474 (Continued)
- .475 (Continued)
- .476 (Continued)
- .477 (Continued)
- .478 (Continued)
- .479 (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Sections 10554 and 18904, Welfare and Institutions Code; 7 CFR 271.2; 7 CFR 272.3(c)(1)(ii); 7 CFR 273.1(b)(2)(iii); 7 CFR 273.2(j)(4); 7 CFR 273.10(a)(1)(iii)(B); 7 CFR 273.10(c)(2)(iii) and (c)(3)(ii); 7 CFR 273.11(a)(2)(i), (c), (c)(1), (c)(2)(iii), (c)(3)(ii), (d)(1), and (e)(1); 7 CFR 273.21(f)(2)(ii), (iii), (iv), and (v), (g)(3), (j)(1)(vii)(B), and (s); (Court Order re Final Partial Settlement Agreement in Jones v. Yeutter (C.D. Cal. Feb. 1, 1990) \_\_\_\_\_ F. Supp. \_\_\_\_\_ [Dock. No. CV-89-0768]); Waiver Letter WFS-100:FS- 10-6-CA, dated October 2, 1990, United States Department of Agriculture, Food and Nutrition Service; Administrative Notice No. 92-23, dated February 20, 1992 and No. 94-39; P.L. 101-624; and 7 U.S.C. 2012 and 2017(c)(2)(B).

Amend Sections 63-504.362 and .618(c) to read:

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING ELIGIBILITY (Continued)

63-504

.3 Monthly Reporting (Continued)

.31 CWD Action on the CA 7

.311 Upon receiving the CA 7 the CWD shall: (Continued)

(e) Determine the household's level of benefits based on actual information reported on the CA 7 and household composition determined as of the issuance month, in accordance with Section 63-503.3. In calculating the household's benefit level, the following income and deductions shall be considered:

(1) Nonexcluded earned and unearned income received in the corresponding budget month, including the earned income of an elementary or secondary school student only if the student is 22 years of age or older at the beginning of the budget month. The CWD shall use the actual amount received by the household to compute benefits, except as provided in Section 63-503.22. (Continued)

.36 Termination (Continued)

.362 If a household whose participation has been terminated reapplies in the month following termination, the household shall be required to provide the CA 7 which is due in the month following termination. If the household's participation was terminated for failure to submit a complete CA 7 by the extended filing date, they also shall be required to submit the missing CA 7(s) and complete an application. The application shall be processed as an untimely application for recertification and benefits for that month shall not be prorated as specified in Section 63-503.13. If the household fails to provide the CA 7(s), the reapplication shall be denied. (Continued)

.6 Recertification of All Households

.61 General Requirements (Continued)

.618 CWD Action on Untimely Application for Recertification (Continued)

(c) A household's benefit level shall be prorated following any period of more than one month, fiscal or calendar depending on the county's issuance cycle, during which the household was not certified for participation as specified in Section 63-503.13.

(d) (Continued)

(e) For nonmonthly reporting households who submit applications within 30 days after the certification period expires, previously verified income or actual utility expenses need not be verified if the source has not changed and the amount has not changed by more than \$25. (Continued)

Authority Cited: Sections 10554, 11265.1, and 18904, Welfare and Institutions Code.

Reference: 7 CFR 271.2; 7 CFR 273.2(j)(3) and (4); 7 CFR 273.8(b); 7 CFR 273.10(g)(1)(i) and (ii); 7 CFR 273.13(a)(2); 7 CFR 273.14(b)(3); 7 CFR 273.21(e)(1), (f)(1)(iii), (f)(1)(iv)(B), (h)(3), (h)(3)(ii), (j), (j)(1)(vi), (j)(1)(vii)(A) and (r), (j)(2)(iii) and (3)(ii); 7 CFR 274.10; P.L. 101-624; Sections 10554 and 18904, Welfare and Institutions Code; 7 U.S.C. 2014(d)(7) and 2017(c)(2)(B); and U.S.D.A. Food and Nutrition Service Administrative Notice 94-39.

.1 Disqualification Penalties for Intentional Program Violation

- .11 Individuals found to have committed an intentional Program violation either through an administrative disqualification hearing or by a court of appropriate jurisdiction or individuals accused of intentional Program violation who have signed a Waiver of Right to an Administrative Disqualification Hearing or a Disqualification Consent Agreement shall be ineligible to participate in the Food Stamp Program as specified in Section 20-300.3.

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Sections 10554 and 18904, Welfare and Institutions Code.



Amend Handbook Section 63-1101.23 to read:

63-1101 TABLES OF COUPON ISSUANCE (Continued)

63-1101

.2 Income Deductions (Continued)

- .23 Dependent Care Deduction. Effective September 1, 1994, the maximum dependent care deduction shall be \$200 a month for each dependent child under two years of age and \$175 a month for each other dependent.  
(Continued)

REGULAR  
NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91)

(See instructions on reverse)

Original  
For use by Secretary of State only

## AGENCY

California Department of Social Services

AGENCY FILE NUMBER (if any)

RDB#0494-07

OAL FILE  
NUMBERSNOTICE FILE NUMBER  
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REGULATORY ACTION NUMBER

95-0215-035

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PREVIOUS REGULATORY ACTION NUMBER

For use by Office of Administrative Law (OAL) only

1995 ENDORSED  
APPROVED FOR FILING  
AND PUBLICATIONADMINISTRATIVE LAW  
MAR 22 1995

Office of Administrative Law

NOTICE

REGULATIONS

FILED  
In the office of the Secretary of State  
of the State of California

MAR 22 1995

At 4:02 O'clock P.M.  
BILL JONES, Secretary of StateBy Roberta Comick  
Deputy Secretary of State

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE Food Stamp Earned Income Deduction Penalty for Intentional Program		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action		Violations <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	
OAL USE ONLY		ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 94-#352	PUBLICATION DATE 9-2-94

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

## 1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S) MPP	ADOPT Section 63-025
SECTIONS AFFECTED	AMEND Section 63-801.323
	REPEAL

## 2. TYPE OF FILING

☒ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify)

## 3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

December 20, 1994 through January 4, 1995

## 4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State ☐ Effective on filing with Secretary of State ☒ Effective other (Specify) May 1, 1995

## 5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify)

## 6. CONTACT PERSON

Frank R. Vitulli, Chief, Office of Regulations Development

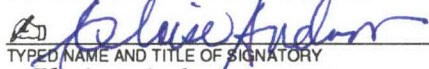
TELEPHONE NUMBER

657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE



TYPED NAME AND TITLE OF SIGNATORY

Eloise Anderson, Director

DATE

February 14, 1995

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91) ( REVERSE)

INSTRUCTIONS FOR PUBLICATION OF NOTICE  
AND SUBMISSION OF REGULATIONS

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the agency name and agency file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Adopt Section 63-025 to read:

63-025 IMPLEMENTATION OF EARNED INCOME DEDUCTION PENALTY FOR  
INTENTIONAL PROGRAM VIOLATION

63-025

.1 Effective May 1, 1995, county welfare departments shall implement the amended regulations contained in Section 63-801.323 for all food stamp households.

Authority Cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code.

Reference: Sections 10553 and 18904, Welfare and Institutions Code.

Amend Section 63-801.323 to read:

63-801 CLAIMS AGAINST HOUSEHOLDS (Continued)

63-801

.3 Calculating the Amount of Claims (Continued)

.32 Intentional Program Violation Claims (Continued)

- .323 When determining the amount of benefits the household should have received, the CWD shall not apply the 20 percent earned income deduction to that portion of earned income which the household intentionally failed to report as ~~provided~~ determined by an administrative disqualification hearing or a court of appropriate jurisdiction/ or This provision shall not apply to persons who have signed by the signing of Waiver of Right to an Administrative Disqualification Hearing Waiver or a Disqualification Consent Agreement.

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 271.2; 7 CFR 273.18(a), (a)(1)(ii), and (a)(2); 7 CFR 273.18(c)(1)(ii) and (c)(2)(ii) (Federal Register, Vol. 58, No. 209, pp. 58454 and 58455, dated November 1, 1993); 7 CFR 273.18(d)(4)(iii); 7 CFR 273.18(e)(1); 7 CFR 273.18(g)(4)(ii); 7 CFR 273.18(h)(4); 7 CFR 273.18(k)(5); United States Department of Agriculture, Food and Nutrition Service letter WFS-100:FS-10-6-CA, dated October 7, 1991; and Sections 10554 and 18904, Welfare and Institutions Code.